



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

HARVARD LAW LIBRARY



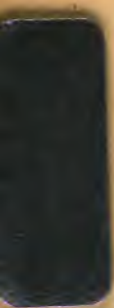
3 2044 097 870 364

HD

Legislature  
Joint Committee on  
Housing  
1922

Y  
263  
H842  
922

HARVARD  
LAW  
LIBRARY



STATE OF NEW YORK

---

INTERMEDIATE REPORT

OF THE

# Joint Legislative Committee on Housing

---

Hon. CHARLES C. LOCKWOOD, Chairman

Hon. THOMAS A. McWHINNEY, Vice-Chairman

Hon. JAMES H. CAULFIELD, Secretary

Hon. JOHN J. DUNNIGAN

Hon. PETER A. LEININGER

Hon. WILLIAM A. CARSON

Hon. PETER J. HAMILL

Hon. WARD V. TOLBERT

Hon. GEORGE N. JESSE

Hon. SALVATORE A. COTILLO



ALBANY  
J. B. LYON COMPANY, PRINTERS  
1922





STATE OF NEW YORK

---

INTERMEDIATE REPORT

OF THE

Joint Legislative Committee on  
Housing

---

Hon. CHARLES C. LOCKWOOD, Chairman

Hon. THOMAS A. McWHINNEY, Vice-Chairman

Hon. JAMES H. CAULFIELD, Secretary

Hon. JOHN J. DUNNIGAN

Hon. PETER A. LEININGER

Hon. WILLIAM A. CARSON

Hon. PETER J. HAMILL

Hon. WARD V. TOLBERT

Hon. GEORGE N. JESSE

Hon. SALVATORE A. COTILLO



ALBANY

J. B. LYON COMPANY, PRINTERS

1922

ny  
263  
H842  
922

MAR 23 1923

# TABLE OF CONTENTS

## CHAPTER 1

	Page
INTRODUCTORY STATEMENT.....	1

## CHAPTER 2

AUTHORITY AND SCOPE OF INVESTIGATION.....	6
---	---

Sec. 1. Creation of committee.....	6
2. Powers of committee enlarged.....	9
3. Powers of committee further enlarged.....	13
4. Procedure of committee.....	17
5. Scope of investigation under enlarged powers.....	18

## CHAPTER 3

GENERAL HOUSING CONDITIONS; RENT LAWS.....	19
--	----

Sec. 1. Importance of housing question.....	19
2. Disproportion between dwelling space and population.....	19
3. Abnormal cost of construction of buildings.....	21
4. Housing conditions as affected by rent laws.....	23
5. Necessity for continuing rent laws.....	29

## CHAPTER 4

EXTORTIONS AND ABUSES BY LABOR UNION OFFICIALS.....	36
---	----

Sec. 1. Building trades council; Brindell.....	36
2. Brindell's exactions from contractors by calling strikes.....	38
3. Brindell's extortions for securing contracts.....	43
4. Brindell's extortions for supplying workmen.....	46
5. Strike insurance.....	47

## CHAPTER 5

LABOR UNIONS.....	49
-------------------	----

Sec. 1. Unfair practices and requirements by labor unions and acts of illegal oppression against the labor unions.....	49
2. Changes in constitutions, by-laws and practices suggested by committee .	53
3. Compliance with suggestions of committee.....	61
4. Incorporation and state regulation of labor unions.....	63

## CHAPTER 6

COMBINATIONS TO FIX PRICES AND RESTRICT COMPETITION.....	65
--	----

Sec. 1. General; Eddy's book.....	65
2. Deliberate arrangement of bids on specific jobs; Hettrick.....	68
3. Hettrick's relation to city contracts.....	72
4. Sub-contracts in New York city.....	77

## CHAPTER 7

Page

RELATIONSHIP BETWEEN BUILDING TRADES ASSOCIATION AND BUILDING TRADES COUNCIL.....	79
---	----

## CHAPTER 8

OPEN PRICE AND OTHER ASSOCIATIONS IN RESTRAINT OF TRADE.....	83
--	----

Sec. 1. Masons' supplies; general conditions.....	83
2. The cement combination.....	86
3. Brick.....	88
4. Sand, gravel and broken stone.....	92
5. Marble industry employers' association.....	93
6. Steel and iron pipe.....	97
7. Eastern soil pipe association.....	99
8. Associations manufacturing or dealing in plumbing and steam heating apparatus.....	100
9. The Ainsworth associations.....	103
10. Fire-proofing.....	104
11. Furring and lathing.....	105
12. Heating and piping contractors' association.....	106
13. Contractors' protective association.....	107
14. Employing plasterers' association.....	108
15. Stone masons contractors' association.....	109
16. Tile, grate and mantel association.....	110
17. Mosaic employers' association.....	112
18. Terra Cotta association.....	113
19. Roofing.....	114
20. Bronze and iron.....	116
21. Architectural iron workers.....	116
22. Metal doors and windows.....	117
23. Metal ceilings.....	117
24. Parquet flooring.....	117
25. Hardware.....	118
26. Glass.....	119
27. Electrical supplies.....	120
28. Paints.....	121
29. Lead.....	122
30. Shoring.....	123
31. Hoisting.....	123
32. Automatic sprinklers.....	123
33. Water meters.....	124
34. Miscellaneous associations.....	125
35. The iron league.....	128
36. Gas and electric fixtures and bulbs.....	131

## CHAPTER 9

CONDITIONS IN THE BUILDING MATERIAL BUSINESS IN THE CITY OF BUFFALO.....	134
--	-----

# TABLE OF CONTENTS

v

## CHAPTER 10

Page

### PROSECUTIONS AND INDICTMENTS..... 140

- S c. 1. Table of convictions and indictments..... 140  
 2. Administration of laws against illegal combinations..... 142

## FINANCIAL PART

### CHAPTER 11

#### GENERAL OBSERVATIONS AND STATISTICS APPERTAIN- ING TO ALL CLASSES OF INSURANCE COMPANIES, BANKS AND TRUST COMPANIES..... 149

### CHAPTER 12

#### EXORBITANT CHARGES AND DISCOUNTS ON LOANS.... 194

### CHAPTER 13

#### INSURANCE; GENERAL REMARKS IN RELATION TO ALL BRANCHES..... 198

- Sec. 1. Insurance a monopoly..... 198  
 2. Fire insurance..... 202  
 3. Fire insurance rating bureaus..... 203  
 4. Stock company control; fire insurance and restrictions upon mutual com-  
 panies..... 204  
 5. Stock company control in casualty insurance..... 205  
 6. Other discriminations against mutual companies..... 205  
 7. Credit losses in fire insurance..... 206  
 8. Supervision of rating bureaus..... 206  
 9. Unearned premiums and income therefrom..... 207  
 10. Official opinion as to regulation of rates..... 209  
 11. Opinions as to admission of mutuals to all lines in this State..... 212  
 12. Plate glass insurance..... 215

### CHAPTER 14

#### INVESTMENTS OF FIRE, CASUALTY, PUBLIC LIA- BILITY, FIDELITY, SURETY AND PLATE GLASS IN- SURANCE COMPANIES..... 216

### CHAPTER 15

#### WORKMEN'S COMPENSATION INSURANCE..... 228

### CHAPTER 16

#### CONTROL OF STOCK INSURANCE COMPANIES..... 238

### CHAPTER 17

#### HOME CONSTRUCTION, BUILDING AND LOAN ASSO- CIATIONS..... 243



## TABLE OF CONTENTS

	Page
CHAPTER 18	
REASONS FOR EXTENDING THE COMMITTEE.....	245
CHAPTER 19	
RECOMMENDATIONS FOR LEGISLATION .....	247
Sec. 1. Emergency rent laws .....	247
2. Illegal combinations.....	247
3. Insurance companies and financial institutions.....	250
4. Emergency construction by insurance companies.....	252
5. Other bills.....	254

---

## **INTERMEDIATE REPORT**

---

**[vii]**



## **CHAPTER 1.**

### **INTRODUCTORY STATEMENT.**

The Joint Legislative Committee on Housing, presents this intermediate report of its work to date with recommendations for legislation.

Your Committee was appointed at the regular session of the Legislature, April 18, 1919, and immediately began the taking of testimony and as a result a special session of the legislature was called for June 16, 1919 by Governor Alfred E. Smith to consider Housing conditions and legislation. The Committee recommended and the Legislature adopted the following:

1. An amendment to the Tenement House Law to permit the remodelling of dwellings for occupancy by not more than four families.

2. An act permitting savings banks to make building loans with proper safeguards.

3. A resolution urging the representatives in Congress from this State to secure Federal Legislation extending to home owners opportunities similar to those afforded by the Federal Farm Loan Act.

4. A resolution urging members of Congress from this State to seek legislation exempting bonds of the Land Bank of the State of New York from Federal taxation.

5. An act requiring twenty instead of ten days notice to be given before dispossessing a tenant.

6. An act permitting the Municipal Court to stay the execution of dispossess warrants for twenty days instead of five days.

The Committee continued its work through the summer and fall of 1919 taking testimony in New York, Albany, Schenectady, Syracuse Rochester, Buffalo and Washington, D. C.

At the regular session of the Legislature of 1920 the Committee recommended the following:

1. An act to exempt the interest on mortgages from the State Income Tax.

2. A resolution memorializing Congress to make a similar exemption of interest on mortgages from the Federal Income Tax.

Neither of these was adopted by the Legislature.

Upon recommendation of the Committee statutes were enacted, providing as follows.

1. Where the time is not particularly specified in an agreement for occupation of premises in the City of New York, it shall be deemed to continue until the first of October following such agreement.

2. A new section of the Penal Law, known as section 2040, making the failure to furnish water, heat, light, power, elevator service, telephone service or interference with the quiet enjoyment of the premises a misdemeanor.

3. An amendment to section 2244 of the Code of Civil Procedure, permitting the court to give affirmative judgment upon a defense or counterclaim set up in a summary proceeding.

4. Providing that the landlord seeking to dispossess a tenant on the ground that he was objectionable must prove to satisfaction of the court that the tenant was objectionable.

5. An amendment to Code of Civil Procedure, providing that in an action to recover real property a tenant might put in an oral answer setting up the same defense or counterclaim that he could interpose in a special proceeding and authorizing the court to render affirmative judgment thereon.

6. Permitting a tenant sued for rent to set up the defense that the rent demanded is unreasonable, unjust and the agreement under which it is sought to be recovered oppressive, and providing also that an increase of twenty-five per cent in rent was presumptively unreasonable.

7. Permitting the justice of the Municipal Court in a proceeding to dispossess for non-payment of rent, to grant a stay not exceeding twelve months upon condition that the tenant pay such rent as the court should fix as reasonable during the time of the stay.

8. Repealing section 230 of the Real Property Law as to the liability of a tenant holding over.

9. That the landlord should have no right to dispossess for non-payment of rent if the amount demanded was greater than that paid for the preceding month, or if it had been increased more than twenty-five per cent over what it was one year prior thereto.

10. Providing that the landlord must give to the tenant thirty days notice to move, to be served in the same manner as a precept in summary proceedings.

The most important of the preceding enactments were the one providing for the special defense as to the reasonableness of the rent; the one giving to justices the power to stay the execution of the warrant; and the penal statute making it a misdemeanor to fail to furnish the facilities called for in the agreement. The purpose of the Legislature had been to keep the tenants in the apartments occupied by them and to protect them from the extortionate demand of rent, and also to prevent their being forced out by refusal to furnish them with the necessary conveniences incident to their occupancy. Experience during the time between the adjournment of the Legislature in April and the first of September showed that the results sought for had been only partially secured. The provision for the stay was effective in preventing immediate dispossessing of tenants, but it left them in great anxiety and uncertainty as to whether their stays would be continued in case of their inability to find other quarters. The increasing of rents continued. By September of 1920 so many thousands of notices to quit had been served that the unrest amongst the rent payers of New York City amounted almost to panic and to meet the serious situation which had arisen, a special session of the Legislature was summoned by Governor Alfred E. Smith for September 20, 1920.

The Committee submitted a brief report and recommended the adoption of additional legislation as follows:

1. Amending the Code of Civil Procedure taking away the right of the landlord to dispossess a tenant holding over except in four cases.

- a. That the tenant was objectionable and the fact that he was objectionable must be established to the satisfaction of the court.

- b. That the owner being a natural person seeks in good faith to recover the premises for his own use and occupancy as a dwelling.

- c. For the purpose of demolishing the premises in order to erect a new building, plans for which have been filed and approved by the Superintendent of Buildings.

- d. To recover premises in good faith sold to a corporation formed under a cooperative ownership plan the entire stock of which is held by stockholders in proportion to the space occupied by them and all apartments leased to stockholders for their personal occupancy.



2. Taking away the right of the landlord to disposses a tenant where the rent had been increased over the amount paid for the month preceding.

3. Amending the statute providing for the special defense of unreasonableness by providing for the filing of a bill of particulars; that a judgment recovered by default should contain a provision that if the judgment be not paid within five days after entry and service of a copy upon the plaintiff, the defendant should be dispossessed; Providing for the deposit of the rent with the clerk of the court; Giving power to the court to open a default in a proper case; providing for deposit in case of appeal.

4. Providing that no action to recover the possession of real property, occupied for dwelling purposes in a city of one million or more shall be brought, except in the four instances in which a holdover tenant might be dispossessed in summary proceedings.

5. Exempting dwelling houses from local taxation until January 1, 1932, if in course of construction at the time of the passage of the Act, or commenced before April 1, 1922 and completed within two years thereafter.

6. An Act permitting the court to stay the execution of the warrant to dispossess pending a motion to vacate the order directing the issuance of the warrant and to vacate the warrant if the order be vacated.

7. Amending section 2040 of the Penal Law, making the refusal to furnish the usual facilities required by a lease, express or implied a misdemeanor and making it applicable to the agent, manager, superintendent or janitor, as well as the owner or lessor.

8. Making the bonds of the Land Bank of the State of New York a legal investment for savings banks.

9. Extending the time of service of a precept from three to five days and making the return day ten instead of five days.

10. An Act taking away the jurisdiction of the justice of peace in the city of Yonkers to take cognizance of an action to recover rent.

The constitutionality of a number of these laws affecting the right to disposses tenants and giving the special defense of unreasonableness of the rent, were attacked and the cases were carried to the Court of Appeals of the State of New York and the Supreme Court of the United States, in a number of cases involving various phases of the laws. Decisions sustaining the constitutionality of the laws in every case were rendered.

At the regular session of the Legislature of 1921 some further amendments to the statutes heretofore referred to were adopted as follows:

1. An act incorporating the law providing for dispossessing holdover tenants in the Civil Practice Act.

2. To incorporate in the Civil Practice Act the provision of the law that a tenant could not be dispossessed for non-payment of rent if the rent had been increased over that for the month preceding.

3. An amendment to the law permitting the reasonableness of the rent to be set up as a defense, as follows:

(a) Providing that the defense should not be allowed if three successive monthly installments had been paid after the commencement of the term and the passage of the amendment.

(b) Providing that all actions for rent if brought in the Supreme or County Court must be in the county where the property is situated and if in a Municipal Court in the district in which the property is situated.

4. An amendment to the Tax Exemption Law, having the effect of validating the ordinance of the Board of Aldermen of the City of New York, adopted February 15, 1921, by which the City of New York accepted the privileges permitted by said act, with certain conditions.

The statute permitting the tenant to set up the defence that the rent is unjust and unreasonable and the agreement under which it is sought to be recovered oppressive and those restricting the right of a landlord to dispossess a tenant are emergency laws and remain in force only until November first, 1922 unless further extended by the Legislature.

## **CHAPTER 2.**

### **AUTHORITY AND SCOPE OF INVESTIGATION.**

#### **(1) Creation of Committee.**

Pursuant to a resolution adopted by the Legislature on April 18, 1919, your Committee was appointed to:

“investigate and ascertain all housing and tenement house conditions and the causes for the lack of construction of new buildings, flats and apartments for rent in cities, and especially in the city of New York, and the causes of the continuous increases in rents, charged to tenants of apartments, flats and dwelling places in cities and especially in the city of New York, to report and disclose the facts showing whether such increase in the lack of construction be justified or not \* \* \* and to formulate such legislative plan as the Committee may deem practicable and effective to prevent the exaction of excessive rents from such tenants.”

After the adjournment of the Legislature, your Committee duly organized and began the investigations directed by such resolution.

The investigation disclosed that there existed such an alarming shortage of dwellings in the large communities of the State, and especially in the city of New York, and that housing conditions were generally so deplorable, and growing steadily worse, that there existed an emergency that would not only justify but require the Legislature to enact remedial laws.

It became evident as investigations proceeded that the housing congestion and its attendant hardships were not primarily due to rent profiteering, but that the latter, which had become general and extortionate, was the effect and not the cause of the former. The root of the evil was not located in the relationship of landlord and tenant but extended deeply into the industrial and mercantile world. The prohibitive rents that were being demanded and to which the tenants were forced to submit, were found to be due mainly to the operation of the inexorable economic laws of supply and demand, to which was added the prohibitive cost of building, largely brought about by the artificial conditions hereinafter described.

Due to the exigencies of the war and to the necessity for concentrating all the energies of the country upon war work and the vast building program connected therewith, private building construction became impossible. Neither the labor nor materials were to be had at any price; the cost would in any event have been prohibitive and it would have been unpatriotic to have diverted our resources from the winning of the war, which was our ultimate goal.

Meantime, while our population was steadily increasing, old residential properties were tottering into obsolescence and became unfit for human habitation from age and the inability of the owners to secure the labor to keep them in repair. Business buildings were encroaching upon residential sections due to business expansion, and before we realized our situation we found ourselves face to face with a housing famine that continues to be a peril to the life, health, safety and morals of the entire community to an extent not generally recognized and that has not yet been appreciably relieved.

The conditions of living thus created and still existing among the masses of our people defy description. The term "overcrowding" conveys no conception of the situation. In the city of New York it has become necessary to practically suspend the operation of our sanitary and building laws so as to preserve any sort of roof over the heads of the poorer population. There are said to be here over 100,000 recorded violations lodged against buildings that the public authorities dare not enforce; thousands of our people are huddled together in unsanitary and even unsafe tenements that are unfit for human habitation. If a contagious disease should take hold of the city of New York it would spread like wildfire in these many congested districts and nothing short of good fortune would prevent it from becoming a plague-stricken city.

In the city of New York alone there is now a shortage of approximately 80,000 low-priced homes to house 400,000 human beings as compared with the normal conditions of pre-war times. This has, of course, meant abnormally high rents, whilst high rents have in turn involved doubling-up and indecent, insanitary overcrowding.

In order that the Committee should be able to review the question of the existence and extent of the shortage of housing accommodations from every point of view, the two leading associations

of owners of real estate in the city of New York, to wit, the Real Estate Board of New York and the United Real Estate Owners Association, were invited to present their views through their officials and to call such witnesses as they might elect. The last-named association frankly conceded the existence of the emergency and the necessity for the Rent Laws. The Real Estate Board of New York, which includes in its membership agents and brokers as well as owners of real property, has insisted that there is not now and has never been a substantial shortage in housing accommodations in the city of New York. On that ground it opposed the enactment of the Emergency Rent Laws, but, while claiming that there is no such shortage in accommodations for the middle and well-to-do classes that would justify the enactment in the first instance or the extension of the present laws, its officials now admit that such a shortage exists with respect to the low-priced accommodations most needed by the masses of the people.

Without submitting any local statistics in support of its claim it takes issue with the public officials of the city of New York as to the character and extent of the shortage and as to the means that have been adopted to correct that situation.

The Real Estate Board has presented a number of suggested amendments to the existing laws, which have received the serious consideration of the Committee. It has presented no persuasive evidence in support of its contentions, although invited to do so, and your Committee is not impressed with the justice, soundness or impartiality of its general attitude. It prefers to accept the statistical information furnished by the public authorities, from which it appears that a housing shortage exists to the extent above indicated.

The Real Estate Association of the State of New York, by resolutions at its special and annual meetings has wholeheartedly supported the conclusions of the Committee. The Committee feels that the attitude of The Real Estate Board is, perhaps sub-consciously, largely influenced in its conclusions by the very natural desire to advance the interests of its members whose holdings might be unfavorably affected by a comprehensive program of building construction that would reduce the present abnormal demand for accommodations and thus render the owners of the class of property that is required to house the masses less productive and would correspondingly interfere with the ability of such owners to secure the rents that they are now receiving under the pressure of the existing emergency.

Your Committee, finds that the conditions above indicated continue to exist and that the housing shortage in the city of New York is increasing in the class of accommodations that are required for the masses of our people. The fact that rents for this character of accommodations are in many instances 150 per cent higher than in pre-war times and that there are no vacancies is to our minds conclusive.

The problem will not solve itself by the operation of economic laws. The deficiency in accommodations of the character most needed will not be supplied for the reason that this type of house cannot be produced as a paying investment for rentals that the average wage-earners can afford to pay at the present costs of construction and materials, nor at the prevailing prices of labor, except in large units on a non-speculative plan. The only solution (apart from State or municipal aid which would require a constitutional amendment that would require two years or more to enact and which your Committee is not prepared to recommend) is to be found in the bill that has been heretofore introduced and is now pending before your honorable body. We believe that with the aid of this legislation and of the remedial measures that we are about to offer the housing shortage will be largely remedied within eighteen months if the Committee is permitted to continue along the lines already followed and further indicated in this report.

While there are many evidences of the unconscionable profiteering by landlords upon our sorely-tried communities, it would be most unjust to indict the entire landlord class or any substantial part thereof as responsible for the present situation. We take it that our task is to encourage and stimulate all measures for increasing the supply until it equals the demand and thus eliminate the opportunity for extortion.

## **(2) Powers of Committee Enlarged.**

Your Committee found profiteering, restriction of competition, price-fixing, trade strangulation and similar abuses in almost every phase of the building and allied industries. The manufacturer, jobber, middleman, contractor, labor leader and the laborers themselves, were all found to be locked in combinations, having the cumulative effect of making the construction of a building well-nigh an economic impossibility.

Your Committee therefore realized that its powers as defined by the resolutions of April 18, 1919, and April 24, 1920, should



be enlarged so that it might comprehend in its researches the startling conditions the existence of which its preliminary investigations indicated. The Legislature accordingly upon the request of your Committee adopted on September 24, 1920, at the extraordinary session the following resolution:

“WHEREAS, A joint legislative committee was heretofore constituted pursuant to resolution duly adopted, April 18, 1919, and April 24, 1920, authorized to investigate and ascertain all the housing conditions and causes for the lack of the construction of new houses, flats and apartments for occupancy or rent in cities, and especially in the city of New York, and

“WHEREAS, It appears from the preliminary report of said committee that its investigations are unfinished and that the same cannot be concluded during this extraordinary session of the legislature and that the resolution under which it is now acting is insufficient in its delegation of powers to permit of the scope of inquiry that is believed by the committee to be necessary; therefore be it

“Resolved, That said resolutions be and the same hereby are amended and added to as follows:

“WHEREAS, There has been and is continuing an alarming shortage in the number of new flats, apartments, tenement houses and homes for rent in the cities of the state, and especially in the city of New York, which has led to the cessation of building operations, and

“WHEREAS, As a result of said shortage there are insufficient living accommodations for the people of such cities and such shortage has resulted in the exaction of exorbitant rents so that the people are unable to secure housing accommodations within their means; and

“WHEREAS, It has been charged that these conditions are due among other things, to the maintenance of exorbitant and fictitious prices of building materials caused by unlawful combinations, associations, agreements or understandings among manufacturers and dealers in building materials and to the inability to obtain or borrow money on bond and mortgage on such improvements; and

“WHEREAS, The cost of building materials is largely affected by the cost of the transportation thereof due to excessive rates and tariffs charged for the transportation of

building materials either by rail or water, especially upon the canals of the state and other navigable waters thereof and to excessive charges for the use of docks and piers controlled, leased or operated by private ownership along and upon the navigable waters of the state."

"WHEREAS, It is imperative for the welfare of the state to, so far as possible, relieve the emergency that has thus been created by stimulating the construction of new buildings, and it is believed that in order to accomplish this, a program of corrective and constructive legislation will be necessary and that such program cannot be entered upon until there has been an exhaustive and proper inquiry into the causes of existing conditions; wherefore, be it

"*Resolved* (if the Assembly concur), That said joint committee be and is hereby continued and that to such committee there be and hereby is delegated the further powers and duties in addition to those already conferred, to fully investigate and ascertain housing conditions and causes for lack of construction of new houses, flats, tenement houses and apartments in cities of the state and especially in the city of New York; the increases made in rents, and report fully the facts showing such lack of construction and accommodations and the extent of the increases in rents; to investigate and report whether or not the construction of such new buildings is in any way impeded or injuriously affected by the existence of one or more combinations, associations, agreements or undertakings operating or transacting business within the state between manufacturers of and dealers in any of the materials or supplies that enter into the construction of buildings, or between individuals, groups or combinations of individuals, and to ascertain and report to what extent the decrease of such new building operations is due to withdrawal of loanable funds on mortgages on real property that was formerly available from corporations, associations, individuals, trustees or estates and the reasons therefor; and to ascertain and report fully the character of investments of such corporations, associations, individuals, trustees and estates and the advantage, if any, to them of preferring other investments to bonds and mortgages upon real property; to examine into, ascertain, publicly disclose and fully report as to the practices and usages obtaining in businesses and trades concerned with the construction of

dwelling structures, and among individuals, corporations, associations and groups of individuals dealing in or furnishing building supplies, materials and labor in the construction and repair of housing structures, and to include in its investigations and inquiry any other thing or matter not specifically mentioned, deemed by said committee relative or pertinent to the general question of providing housing accommodations for the people of the cities, and especially of the city of New York, as though mentioned in detail herein, and further

*“Resolved, That such committee is hereby authorized to choose from its members a chairman and such other officers as it may deem advisable to conduct as a whole, or through sub-committees, at such places in the state as it may determine, such hearings and investigations, public or otherwise, as it may be advised during or between sessions of the legislature; to employ necessary counsel, experts, accountants, bookkeepers, stenographers, clerical and other assistants; to summon and compel the attendance of witnesses; to compel the production of books and records, papers and documents of individuals, corporations, associations and other bodies or individuals; to administer oaths to witnesses; to have the assistance and cooperation of state officers and employees and departments and access and freedom and examination of their reports as may be necessary in its investigations, and to have all the power of a legislative committee provided by the legislative law; and further*

*“Resolved, That such committee is hereby authorized and directed to investigate the rates, tariff, equipment and condition surrounding and pertaining to the towing business upon the navigable waters of this state, including the canals, together with the dockage facilities and the rates and tariff charged for the use thereof in the ports and harbors and along the navigable streams and canals of the state.”*

*“Resolved, That the committee begin its sittings and investigation immediately and report the results thereof with its recommendations with all convenient speed to the legislature, and further*

*“Resolved, That the further sum of twenty-five thousand dollars, or so much thereof as may be necessary, be and*

hereby is appropriated from the contingent fund of the legislature for the necessary expenses incurred and to be incurred by said committee, to be paid on vouchers approved and audited according to law."

### **(3) Powers of Committee Further Enlarged.**

Later in the course of its investigations your Committee reached the conclusion that the construction of buildings was also being prevented in large measure by reason of an unprecedented stringency in the money market of the country, and that moneys which ordinarily and in normal times were available for building operations were directed to other forms of investment. Financial institutions that held in trust the funds of the masses of the people, tempted by the temporary higher returns, were found to be investing those funds in securities that were speculative and precarious as compared with loans on mortgages on improved real property. Scarcely any money was to be found in the mortgage loan market, although, as your Committee hereafter shows, carefully selected mortgages on improved real property are the safest and in the end the most stable and most profitable forms of investment that can be made.

This situation was further accentuated by the super-taxes on incomes imposed by the Federal Government, which resulted in the relinquishment of mortgages by individuals and estates in favor of tax-exempt securities.

Your Committee, therefore, found it desirable and necessary, incident to the solution of the housing problem, that the character of and returns upon the investments of banks, insurance companies and financial institutions and the general conditions in the money market that caused this diversion of funds from the building industry should be investigated and that legislation be suggested that would induce the employment of capital in building construction.

Your Committee accordingly asked the Legislature for power to inquire into these financial conditions. The Legislature modified and enlarged its previous resolution on February 16, 1921, as follows:

"WHEREAS, A joint legislative committee was heretofore constituted pursuant to a resolution duly adopted April 18, 1919, and April 24, 1920, whereby such committee was duly authorized among other things, to investigate, ascertain and

report on all housing conditions and causes for lack of construction of new houses, flats and apartments for occupancy and renting in cities and especially in the city of New York, and

"WHEREAS, Said committee presented a preliminary report to a special session of the legislature held in September, 1920, from which it appears that its investigations were then still unfinished, that the same could not be concluded during the then special or extraordinary session of the legislature and that the resolution under which it had been acting was insufficient in its delegation of powers to permit the scope of inquiry that was believed by the committee to be necessary, and

"WHEREAS, The legislature at the aforesaid special or extraordinary session directed a continuance and enlargement of the investigation that was then being conducted under the aforesaid resolution of April 18, 1919, and April 24, 1920, by a joint and concurrent resolution dated September 24, 1920, to which reference is hereby made and which is hereby embodied herein as a part hereof, and

"WHEREAS, The said committee had continued and is still engaged in the investigation directed by each and all of the aforesaid resolutions and its work is still unfinished, and it appears that in order to complete said investigation and to report thereon and to formulate adequate recommendations for legislation based thereon, the powers conferred by each and all of the aforesaid resolutions should be continued and re-enacted and that the same should be enlarged in the particulars hereinafter specified, and

"WHEREAS, It is deemed necessary or advisable that for the purpose of enabling the committee to more fully investigate and report upon certain of the matters referred to in the aforesaid resolutions, the committee should be clothed with power to fully inquire, among other things, into each and every matter and thing that affects the present, past or future conditions surrounding or in any way bearing or relating to the construction, ownership, transfer, leasing and renting of stores, houses, lofts, apartments and other buildings in all and any of the cities of the state and particularly in the city of New York,

*" Now, therefore, be it Resolved, as follows:*

" 1. That the aforesaid resolutions of April 18, 1919, April 24, 1920, and September 24, 1920, and all the powers thereby conferred are hereby reenacted, continued and conferred upon the committee appointed under this resolution with the same force and effect as though the text of all such resolutions were hereby expressly repeated and embodied herein as a part hereof. All the testimony taken and all other acts and things done by the committee acting under the above-described resolutions are to be deemed and taken as the testimony and as the acts and things done by the committee appointed under this resolution.

" The committee as hereby recreated, reconstituted and continued shall consist, as did the previous committee, of ten members, two of whom shall be members of the old committee who are members of the present senate, and the remaining three senate members shall be forthwith named by the temporary president of the senate and five members of the assembly, including such of said members as are members of the present assembly, the balance of such five members to be named by the speaker of the assembly. In the event of one or more vacancies, from time to time, in the committee as so reconstituted, the same shall be filled whether such vacancies occur during any recess or after the adjournment of the legislature, as to the senate members by the president pro tem of the senate and as to the assembly members by the speaker of the assembly.

" The committee may at any time and from time to time, by resolution of a majority of its members, be subdivided into subcommittees of such number as it shall by a majority vote determine. Such subcommittees may sit at the same times and places or at different times and places in the state of New York. Each subcommittee shall appoint its own chairman and may act by majority vote of its own members; it may administer oaths and issue subpoenas requiring the attendance of witnesses and the production of books, papers and documents and do all other acts and things that may be done by the committee as a whole or that may be delegated to it by the committee, subject always to the subsequent approval or ratification of its powers by the full committee.



"The powers and duties of the committee enumerated in the above recited resolutions, or of any subcommittee, to the extent authorized by the committee, shall include also the following powers in addition to those delegated and prescribed under each and all of such resolutions:

"Inquire into each and every matter and thing that affects the present, past or future conditions surrounding or in any way bearing or relating to the construction, ownership, transfer, leasing and renting of stores, houses, lofts, apartments and other buildings in any and all cities of the state, and particularly in the city of New York, the causes for any present lack of living and business accommodations, the danger or probability of future lack thereof and the reasons and remedies therefor; the practices and usages with respect to the making or withholding of real estate and building loans, and covering the costs, payments and expenses involved in making and obtaining such loans; the increase in construction costs and rents and the reasons and remedies therefor, including in such investigation and in its report the operation and effect of the various laws on this subject passed at the regular session of the legislature of 1919 and at the regular and the special or extraordinary sessions of the year 1920 and the advisability of amending or repealing the same or any of them.

"The investigation of the Committee may include any and every other matter and thing not specifically mentioned in this resolution and in the above described resolutions made part thereof relevant to the general question of providing, maintaining, stimulating or increasing accommodations for housing or business purposes for the people of the cities of this State and especially of the city of New York as though the same had been expressly specified herein.

"The Committee as a whole or through subcommittee may hold sittings beyond the sessions of the Legislature and during the recesses thereof and after its final adjournment. It shall immediately resume sittings and investigation and shall report the result of all investigations heretofore made under the above recited resolutions with its recommendations, with all convenient speed, but in no event later than March 1, 1922. The Committee may meanwhile from time to time make intermediate reports with such recommendations for remedial legislation as it shall deem advisable.

*“ Resolved, That no person shall be excused from attending and testifying before said Committee or before any subcommittees thereof, or from producing books, papers, contracts, agreements or other documents before the Committee or such subcommittees in obedience to its subpoena on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him or to subject him to a penalty or forfeiture; but no person so attending and testifying or producing such books, papers or documents shall be subjected to prosecution or to any penalty or forfeiture for or on account of the particular transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before said Committee or subcommittees or in obedience to its subpoena.*

*“ Resolved, That the further sum of seventy-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated from and out of the contingent fund of the Legislature for the necessary expenses heretofore incurred and hereafter to be incurred by said Committee, to be paid on vouchers approved and audited according to law.*

#### **(4) Procedure of Committee.**

Your Committee announced at the opening of the hearings, and each witness was advised, that while it would be impossible and contrary to all precedents of legislative investigations to permit witnesses to be represented by counsel, every witness would be accorded the right, upon the conclusion of his examination by the Committee's counsel, to make any explanation he saw fit bearing upon his testimony and that if he so preferred he might examine the testimony after it had been transcribed and might then return to the witness stand to correct, explain or modify it. The Committee went also to the unusual extent of giving advance information, wherever possible, to every person who might be implicated in any testimony given by other witnesses, to be present at the time, so that he would be afforded the opportunity of immediately taking the witness-stand in order that both sides could be immediately placed before the public and every chance of injustice thus avoided.

Witnesses were also invited to put such written questions as they or their counsel saw fit, to other witnesses in whose testi-

mony they were concerned, through the counsel of the Committee. This privilege was frequently exercised.

**(5) Scope of Investigation Under Enlarged Powers.**

Fortified with the enlarged powers extended to it by the legislative Resolutions of September 24, 1920, and February 16, 1921, your committee instituted a more thorough investigation of the various ramifications of the building and allied trades and the causes, industrial, commercial and financial, that contributed to the scarcity of buildings and the abnormality of the cost of construction.

Th causes disclosed by the investigation resolved themselves into the following chief classes:

1. Extortion, coercion, illegal combinations and other abuses by labor union officials.
  - a. Grafting by individuals belonging to unions.
  - b. Exclusion of workers from unions; fines and penalties; regulations; customs interferences in respect to work.
2. Unlawful restrictions and regulations contained in constitutions, by-laws, rules and practices of labor unions and in agreements between such unions and unlawful combinations of employers.
3. Combinations among manufacturers of, jobbers, dealers and retailers in, building materials and supplies, to restrain competition, restrict output, fix prices and create monopoly.
  - a. Deliberate arrangement of bids on specific jobs; Hettrick and his aids.
  - b. Combinations between groups of employers and of same with groups of employees; Building Trades Employers Association; Building Trades Council.
  - c. "Open Price" Associations in Various supplies and materials.
4. Withholding of financing from building construction by money-lending institutions.
  - a. Fire insurance companies; their rates.
  - b. Investments of financial institutions; excessive charges; improper investments.
  - c. Investment in real estate mortgage; safety of such investment.

## CHAPTER 3.

### GENERAL HOUSING CONDITIONS; RENT LAWS.

#### (1) Importance of Housing Question.

Of the domestic problems that confront the country at the moment that of Housing is one of the most critical and urgent.

It is estimated that the item of Housing represents about one-fifth of the cost of living in all of the great cities of the United States. It is by far the most important of the items of cost. A famine in Housing with its accompanying invitation to extortion, profiteering and exploitation is therefore by far the greatest deterrent to any effort to secure a reduction in the cost of living. Until a condition of normalcy in that item can be restored no substantial general reduction can be expected. It is not only far-reaching in its direct effects but it indirectly inflates every other item that enters into the cost of living, for the reason that increased rents on business places must be added to the cost of everything we buy.

#### (2) Disproportion Between Dwelling Space and Population.

Conditions in the city of New York, although more acute than in smaller cities, fairly represent general conditions throughout the great cities of the country.

Below is a statement year by year from 1910 to the present time, of the population of Greater New York, showing the increase or decrease in the number of tenements and apartments for each of these years, from which it appears that while the population from 1918 to the present time has increased over six per cent there has been a large decrease due to fire, obsolescence, demolition and conversion in the number of available tenements and an actual decrease for the past eighteen months in the number of apartments.

Year	Population of Greater New York	Tenements	Apartments
1910.....	4,766,883	plus 80	plus 11,702
1911.....	4,822,950	plus 588	plus 21,495
1912.....	4,879,017	minus 735	plus 13,894
1913.....	4,935,084	minus 839	plus 5,326
1914.....	4,991,154	plus 73	plus 21,557
1915.....	5,047,221	plus 522	plus 17,094
1916.....	5,161,786	plus 1,007	plus 21,507

Year	Population of Greater New York		Tenements	Apartment
1917.....	5,276,351		plus 888	plus 19,923
1918.....	5,390,917		minus 1,006	plus 5,451
1919.....	5,505,482		minus 62	plus 1,297
1920.....	5,620,048		minus 236	minus 1,616
1921.....		Jan. 1921	minus 381	minus 219
1921.....	5,734,513	July 1921	minus 156	minus 209

The statistics taken in their entirety are startling and most discouraging. In 1910, when the population of the city was 4,766,833 there were 844,599 apartments available in New York city. In 1917 when the population was 5,276,351 there were 981,843 apartments available, being an increase of 134,249 apartments to meet an increase of approximately 624,034 in population.

The population in Greater New York as of July 1st, 1921, is estimated at 5,734,613 and there were then only 982,771 apartments available *or an increase of only 923 apartments to meet an increase of 342,696 in population.* As against an increase of 157,249 apartments in 9 years before the war, we have an increase of 923 apartments for the last 3½ years. There have, of course, been more than 923 apartments constructed during that period but the demolitions due to fire, old age and conversion to business purposes had brought the net increase of available dwelling space in 3½ years to less than 1,000.

From 1910 to 1917 inclusive there were net actual gains in available dwelling space of 16,570 apartments per year.

As against this it appears from the following table of the net increases and decreases of construction in apartments for the years 1918 to July, 1921, inclusive, that there have been actual losses from 1920 to the present time:

Year		Number of Apartments
1918.....	a gain of	5,451
1919.....	a gain of	1,297
1920.....	a loss of	1,616
Jan. 1, 1921.....	a loss of	219
July 1, 1921.....	a loss of	209

The sum total of these figures shows that construction fell behind 69,797 apartments from 1917 to July 1st, 1921.

From 1910 to 1917 an average of 24,922 new apartments were built each year. From 1918 to July 1st, 1921, the following construction in dwellings took place.

Year	Number of Apartments
1918.....	5,706
1919.....	1,624
1920.....	4,882
July 1, 1921.....	1,183

This shows an average of 3,642 new apartments constructed in the post-war period, so that the gross construction fell behind 73,832 apartments. The *gross* construction in  $3\frac{1}{2}$  years fell behind 4,034 more than the *net* construction which, as above stated, fell behind 69,797. All these calculations are based on official figures showing a shortage of nearly 70,000 houses on July 1st, 1921.

### (3) Abnormal Cost of Construction of Building.

With this astounding shortage in dwellings, there is a correspondingly astounding increase in the cost of the essential materials of building construction. The statistics of *wholesale* prices of building materials from January, 1917, to October 1st, 1921, compiled by the Federal Bureau of Labor show how greatly such prices have increased. Retail prices have more than correspondingly increased.

The United States Government uses 100 as a unit to indicate *wholesale* prices of commodities. In April, 1920, building materials reached a maximum of 341 while general commodities, notwithstanding the extent to which they, too, have been exploited in every direction, were at their highest point at 272. In December, 1920, building materials fell to 266 while general commodities fell to 189. In February, 1921, while general commodities were at 177 building materials were still at 222.

The following statistics are from the Bureau of Labor Statistics of the U. S. Department of Labor. They show the index numbers of wholesale prices of lumber and building materials and of commodities in general by months from 1917 to October, 1921:

Year and Month	Lumber and building materials	All commodities
1917		
Average for year .....	124	176
January .....	106	161
February .....	108	156
March .....	110	161
April .....	114	172
May .....	117	182
June .....	127	185

Year and Month	Lumber and building materials	All commodities
1917		
July .....	132	186
August .....	133	185
September .....	134	183
October .....	134	181
November .....	134	183
December .....	135	182
1918		
January .....	136	185
February .....	138	186
March .....	144	187
April .....	146	190
May .....	148	190
June .....	150	193
July .....	154	198
August .....	157	202
September .....	159	207
October .....	158	204
November .....	164	206
December .....	164	206
1919		
January .....	161	208
February .....	163	197
March .....	165	201
April .....	162	203
May .....	164	207
June .....	175	207
July .....	186	218
August .....	208	226
September .....	227	220
October .....	231	223
November .....	236	230
December .....	253	238
1920		
January .....	268	248
February .....	300	249
March .....	325	253
April .....	341	265
May .....	341	272
June .....	337	269
July .....	333	262
August .....	328	250
September .....	318	242
October .....	313	225
November .....	274	207
December .....	266	189
1921		
January .....	239	177
February .....	221	167
March .....	208	162
April .....	203	154
May .....	202	161
June .....	202	148
July .....	200	148
August .....	198	152
September .....	193	152
October .....	192	150

#### **(4) Housing Conditions as Affected by the Rent Laws.**

The urgent necessity for these laws has been abundantly demonstrated.

According to the testimony of the presiding justice of the board of justices of the municipal court, there were on January 1, 1922, upwards of 68,000 cases pending in these courts. Where a jury trial is demanded there is at times a delay of some months in bringing the case to trial. In about 75 per cent of the rent cases a jury trial is demanded.

Owing to the fact that wherever the landlord increases the rent of a single apartment he must make a showing of the net rentals of the entire building, it has become the rule rather than the exception that all the tenants in a given building whose rents are attempted to be unduly increased very properly act together in resisting the increase. The facts bearing upon the question of reasonable rent applicable to one tenant generally apply equally to all. Where the tenants in such a case demand jury trials the law requires that each tenant shall deposit \$3 for jury fees in each case, although the cases affecting that building are usually tried together, the proof of rental value being the same, or one case is tried and the others abide the result of the decision in that case.

The committee had one instance before it in which there were 268 cases, where there was the same landlord and in which the results were based upon the same facts. Only one of the cases was tried, under a stipulation whereby the result in the remaining 267 cases was made to abide the event of the case tried and like judgments were entered in all of them by consent. There were 268 jury fees paid in this case, which is illustrative of a vast number of the cases, making a total of \$804 paid for jury fees in these cases, whereas there was but one jury and the remaining \$801 should have been repaid to the tenants who made the deposits. Upwards of \$40,000 in excessive jury fees have been deposited by tenants under these circumstances, the return of most of which they have been unable to secure owing to differences of opinion as to the law.

These jury fees from time to time as collected are sent to the Comptroller and the process of having each tenant secure the return of the \$3 that belongs to him is so complicated and circuitous that it is practically impossible for them to get back their



money. The law should be amended so as to provide that in all cases in which there has been but one trial or where all the cases are by stipulation tried together there should be but one jury fee paid. The clerks of the courts should be authorized to retain this money for, say, 30 days after the case is decided and required meantime to return it to the tenants, after deducting a single jury fee.

Inasmuch as the rent laws are temporary and the congestion of rent cases is gradually being cleared up by the justices, aided by the decisions on the Rent Laws of the higher courts, your committee is opposed to the appointment of additional municipal justices at this time except in Seventh District, Manhattan, where the population and the business of the court has more than doubled since the present boundaries of the district were laid out.

A special study of the Municipal Court situation should be made with a view to reapportioning the districts, for since the lines were last fixed there have been great changes in population in some of the boroughs, and in some of the districts there will be a small amount of business, while in others there is an abnormally large amount of business. It is necessary, in many cases, for litigants to travel many miles to the court house, and in their travels to pass the court house of another district.

The records show that in districts in Richmond and Queens there is not enough business to occupy the full time of the justices five days a week. The Committee believes that the present congestion could be largely relieved if there was interborough rotation of justices.

In some districts extra clerks are necessary, and the committee respectfully calls this situation to the attention of the City authorities, so that such additional help may be provided.

The Committee opposes the plan for a central jury part. This means that in the Borough of Brooklyn all who demand a jury trial in rent cases would have to go to the vicinity of Borough Hall. In some instances litigants would have to travel ten or twelve miles, and as most of the trials are attended by women, in many cases accompanied by children, this would be a great hardship. The Municipal Court is a neighborhood court. The judges should be elected by districts. If the people of the neighborhood were required to go miles in order to have a jury trial they would be compelled in many cases to waive the jury trial. The committee is opposed to the abolition of jury trials.

Certain suggestions of amendments to the law have been advanced by Associations of owners of property:

1. We have been asked to recommend that the Legislature shall fix the basis on which the Courts shall determine what is a reasonable rent by way of return on the value of the investment.

After due consideration of this subject we are of the opinion that such legislation would be impracticable and of questionable legality. That is a judicial rather than a legislative function, besides which, although the Courts have differed on the subject, they are approaching in their decisions day by day nearer to a uniform rule and one will doubtless shortly be reached.

2. It has been argued and in our judgment with conclusive force that where a tenant has been in possession under a written lease for a term of one year or more that has expired and he elects to avail himself of the provisions of the Rent Laws to continue in possession beyond the expiration of his term he shall be deemed to be a tenant from year to year dating from the expiration of his lease, subject always to the reservation that he may contest the reasonableness of the rent reserved in the lease and insist upon the fixing of a reasonable rent by the Court.

It is not just to the landlord that the tenant in such a case should be permitted to hold over after the expiration of his lease from month to month and to retain the premises for the best season of the year and then vacate it at a time when it is difficult to secure a new tenant. It has frequently happened that tenants of this class have taken advantage of these Laws to retain possession until the commencement of the summer season and then to move into the country leaving the premises vacant at a time when other tenants are not procurable for this character of property.

So long as the right is reserved to the tenant, notwithstanding an existing or expired lease, to have the reasonable rental value of the premises determined, there is no hardship in requiring a hold-over tenant to retain and be responsible for the rent for another year. He should not be placed in a better position than the tenant who renews his lease for a year or more.

3. It has been urged that where a tenant has, since the enactment of the Rent Laws, voluntarily entered into a new lease he should not be permitted to defend against the payment of the rent reserved in that lease. The Rent Laws are predicated on the theory that on account of the famine in housing the tenant is under duress and is bound to agree to whatever terms of payment

are insisted upon by the landlord. The Committee is opposed to such an amendment or to any change in the law in that respect. It is against this situation that the Rent Laws were intended to grant relief.

4. We have been requested to urge the repeal of the concluding sentence of Section 6 which provides that:

“The plaintiff shall be entitled in costs only in the event that he recover the full amount demanded in the complaint.”

We do not approve of this suggestion. The landlord should not be encouraged to demand increases of rent that he cannot justify. If the judgment of the court awards him less than the amount claimed by him he should not be permitted to mulct the tenant in the costs of the proceeding. In that event neither party has won and the tenant usually has to employ counsel.

5. The statute should define the method of determining the value of the investment as a basis for fixing the reasonable rental value insofar as this can be lawfully done.

The present situation is unjust to the tenant. In 1919 when the housing shortage was first felt landlords began to increase rents. They continued to increase until the Rent Laws were passed in 1920 so that when these laws were put upon the statute book there had already been large increases which the laws were unable to reach, however excessive they may have been. The laws were properly made and could have been made to apply only to tenants whose rents were increased after they had been enacted.

In offering proof of the value of the property the landlord based that value largely upon the rental returns calculated upon these increased rents. The result has been to create a vicious circle based upon these increases. Every time the rent increases, however unjustifiable, the value goes up proportionately.

Another, and what has become a customary method, of supporting exorbitant rents among a large class of “sharks” that has grown up as the result of the housing famine is to increase the apparent value of the property by fictitious and colorable sales at excessive prices and then make proof of these sales as evidence of the value of the investment. This practice of “wash” sales has reached the dimensions of a recognized industry and is in the hands of men who are not builders, who never heretofore concerned themselves with real estate and who have never constructed a building.

These men hold the properties through various corporations that they organize for the purpose. Their equities are usually trifling but the rents from these small investments on properties that are loaded with first, second, third and sometimes fourth mortgages up to within 10 per cent of their total value, are enormous. It is not unusual to find them securing a yearly return in excess of their total investment in the property.

This is the type of landlords who flood the courts with these rent cases. The clerk of the Seventh District Court, which has the largest number of these cases, testified that there are ten landlords in that district who furnish over 75 per cent of the many thousands of cases pending in that court. When these landlords have driven the rents to the limit permitted by the courts they sell or lease the property for a long term of years upon a valuation partially arrived at on the basis of these exorbitant rents.

Tenants are at a great disadvantage in disproving the valuations placed upon these properties based on the expert testimony which the landlord is always able to produce in support of his valuation. The experts are necessarily owners, agents or brokers of real estate, most of whom are ranged on the side of the landlords. The procuring of impartial testimony of this character by the tenant is practically impossible even if he could afford to pay for it, which he seldom can.

This method of fixing values is in itself fundamentally wrong and invites fraud. Rents paid during an emergency arising out of a housing famine are not a proper test of value nor are purchases and sales made under these abnormal conditions.

The best and safest test of value is the assessed value. The statute requires that property be assessed at its full value. If the valuation is excessive the owner has the right of review.

Many do not buy these properties to hold or for investment. They buy them to "readjust" the rents and sell them on that basis.

Your Committee recommends that the law be amended so as to provide that the assessed value shall be presumed to be the value of the investment. The Legislature could not lawfully go further. Such a provision would put the burden upon the landlord of disproving the correctness of the assessed value which would be a protection to the tenant.

**Summary Proceedings Instituted in the City of New York in 1920 and 1921 and the Various Districts in Which They Were Instituted.**

Manhattan	1920	1921
First district .....	3,548	3,145
Second district .....	11,718	12,873
Third district .....	4,556	16,596
Fourth district .....	2,568	1,988
Fifth district .....	2,644	10,545
Sixth district .....	7,115	4,980
Seventh district .....	11,767	22,214
Eighth district .....	5,403	3,050
Ninth district .....	2,800	7,920
Total . . . . .	<u>52,119</u>	<u>83,311</u>
<b>Bronx</b>		
First district .....	6,670	3,025
Second district .....	14,058	6,044
Total . . . . .	<u>20,728</u>	<u>9,069</u>
<b>Brooklyn</b>		
First district .....	3,181	3,157
Second district .....	4,233	2,654
Third district .....	7,313	5,310
Fourth district .....	4,774	2,716
Fifth district .....	5,569	4,064
Sixth district .....	5,652	2,704
Seventh district .....	9,345	5,027
Total . . . . .	<u>40,067</u>	<u>25,832</u>
<b>Queens</b>		
First district .....	991	1,365
Second district .....	778	534
Third district .....	1,812	4,000
Fourth district .....	1,230	844
Total . . . . .	<u>4,811</u>	<u>6,743</u>

Richmond	1920	1921
First district .....	271	635
Second district .....	244	266
Total . . . . .	<u>515</u>	<u>901</u>

*Recapitulation*

Manhattan .....	52,119	83,311
Bronx .....	20,728	9,069
Brooklyn .....	40,067	25,832
Queens .....	4,811	6,743
Richmond .....	515	901
Total . . . . .	<u>118,240</u>	<u>125,856</u>

**(5) Necessity for Continuing the Rent Laws.**

There has been a partial discussion on this subject in another part of the report.

Attention is called:

1. To the testimony of Mr. Frank Mann, Commissioner of the Tenement House Department of the City of New York, and to the statistics submitted by him. Commissioner Mann testified on January 5, 1922, among other things, as follows:

“The problem of housing New York’s 6,000,000 inhabitants is still far from solution. A large number of one and two-family houses have, of course, been erected during the year 1921 but aside from the cost of these which makes them prohibitive for the ordinary workingman, their capacity for supplying the deficiency in housing is after all very limited. It is to the construction of tenement houses that we must look for relief from the present overcrowded conditions, and the number of tenements erected during the year is still below the normal need, to say nothing of making up for five years of comparative cessation in such construction. Before the war the new tenements provided additional housing for approximately 25,000 families each year but the tenements erected in 1921 will provide homes for only about 6,000 families. The figures for the past five years show at

a glance how serious the situation has been and how great is the need for more housing. The figures are as follows:

Year	Tenements Erected	Apartments
1917 .....	760	14,241
1918 .....	130	2,706
1919 .....	95	1,624
1920 .....	237	4,882
1921 (to December 15) ..	264	5,667
	<hr/>	<hr/>
	1,486	29,120

"The total number of apartments, therefore, provided in new tenements erected during the past *five years* is only 29,120, or approximately 17% more than the normal *annual* production before 1914."

Differently stated, there have been provided in the past five years 29,120 apartments as against 125,000 apartments that were provided during the five years preceding the war, so that even if there had been no cessation of building the present rate of construction, taking the year 1920 or 1921, is equal to a trifle over one-fifth of the normal construction.

Commissioner Mann proceeds as follows:

"Some encouragement, however, is to be obtained from the fact that a very considerable amount of tenement construction is now under way. Statistics compiled by the Tenement House Department show that on December 15, 787 new tenements were in process of erection and that these when completed will house 16,078 families. As almost all of this construction has been begun since April, 1921, the logical inference must be drawn that the tax exemption law has given considerable stimulus to housing. An analysis of the situation, however, shows that the character of the new housing which has resulted from this law does not fully meet the real emergency, namely, the need for houses for the wage earner, i. e., houses where moderate rents for decent living conditions are available.

"The statistics of the Bureaus of Buildings and the Tenement House Department show that during the year there have been approximately 25,000 apartments provided; that

is, in one and two family houses and tenement houses, totaling in the aggregate that number of apartments. In the case of the one-family house, eleven or twelve rooms, i. e., five or six rooms for each family. In the tenement houses, the average has scarcely been three rooms to an apartment. The rental cost of these houses averages \$20 per room or even more. This does not include the houses that are considered of a sumptuous character, located particularly in Manhattan, where the rental of the rooms runs from \$100 to \$200 per month per room.

“The average wage earner with a family of four persons, — the average number per family — cannot live decently in less than four or five rooms and bath. At the average rental this means, therefore, \$80 to \$100 per month. It must be obvious that this is an impossible rent for the average wage earner to pay. The pressing need is for apartments which can be rented at from \$8 to \$10 a month per room.”

2. The following statistics from the Bureau of Buildings for the boroughs of Manhattan and the Bronx are interesting and instructive. They demonstrate that notwithstanding the great shortage in housing due to the exigencies of the war, construction is still far below that of normal years preceding the war. As against an average of new apartments furnished for each of the seven years from 1910–1916 (both inclusive) of 6,663 apartments, we have an average for the five years 1917–1921 (both inclusive) of but 1,740 apartments and although the construction costs have almost doubled, the estimated annual costs of the buildings constructed in these five years are far below the average for the seven years preceding the war.



## PLANS FILED FOR RESIDENCE BUILDINGS, YEARS 1910 TO 1916, INCLUSIVE, BOROUGH OF THE BRONX

YEAR	DWELLINGS			TENEMENTS			TOTALS		
	Number of buildings	Number of apartments	Estimated cost	Number of buildings	Number of apartments	Estimated cost	Number of buildings	Number of apartments	Estimated cost
1910.....	571	769	\$3,260,100	971	20,980	\$34,920,000	1,542	21,749	\$38,180,100
1911.....	560	722	2,992,150	372	8,352	14,500,000	932	9,074	17,492,150
1912.....	344	470	1,754,950	607	12,692	25,192,500	751	13,162	26,747,450
1913.....	228	335	1,157,775	330	7,371	14,950,850	558	7,706	16,086,625
1914.....	209	302	930,700	269	6,212	12,228,000	478	6,514	13,156,700
1915.....	217	284	929,425	489	11,939	22,822,000	706	12,223	23,751,425
1916.....	135	203	617,650	224	5,200	12,012,000	359	5,403	12,629,656
Totals.....	2,264	3,085	\$11,642,750	3,262	72,746	\$136,623,350	5,326	75,831	\$148,044,106
YEARS 1917 TO 1921, INCLUSIVE									
1917.....	154	234	\$846,550	59	1,685	\$3,770,000	213	1,919	\$4,616,550
1918.....	42	54	217,900	22	752	1,675,000	64	806	1,892,900
1919.....	478	606	3,232,500	95	3,311	9,654,000	573	3,917	12,886,500
1920.....	545	714	4,062,975	24	894	3,610,000	569	1,608	7,672,975
1921.....	2,481	3,319	16,332,849	277	10,718	39,834,900	2,758	14,037	56,167,749
Totals.....	3,700	4,927	\$24,692,774	477	17,360	\$58,543,900	4,177	22,287	\$83,236,719

## PROPOSED NEW BUILDINGS PROVIDING HOUSING, BOROUGH OF MANHATTAN

YEAR	DWELLINGS		TENEMENTS			OTHER RESIDENCES	
	Number of buildings	Estimated cost	Number of buildings	Number of apartments	Estimated cost	Number of buildings	Estimated cost
1910.....	43	\$1,956,300	208	7,600	\$36,923,000	7	\$955,000
1911.....	39	2,263,500	194	7,033	28,178,000	10	5,900,000
1912.....	28	1,532,000	182	6,379	30,452,000	12	7,185,000
1913.....	32	2,761,000	138	6,337	22,267,200	10	1,885,000
1914.....	21	1,682,000	133	5,141	18,916,000	9	2,975,000
1915.....	25	792,500	193	6,436	24,960,500	9	2,030,000
1916.....	38	3,065,700	183	7,721	37,841,500	27	26,717,000
Total.....	226	\$14,053,000	1,251	46,647	\$200,538,200	84	\$45,147,000
Average.....	32.2	\$2,007,571.4	178.7	6,663.8	\$28,648,314	12	\$6,449,571.4
1917.....	5	\$420,000	23	838	\$2,661,000	5	\$2,750,000
1918.....	4	215,000	9	395	1,780,000	1	750,000
1919.....	19	1,904,500	44	1,801	13,575,000	14	8,788,000
1920.....	22	1,503,500	22	1,134	13,565,000	3	1,915,000
1921.....	135	3,015,300	109	4,532	33,435,000	4	14,600,000
Total.....	185	\$7,058,300	207	8,700	\$65,016,000	27	\$28,803,000
Average.....	37	\$1,411,660	41.4	1,740	\$13,003,200	5.4	\$5,760,600

A mass of further statistics from the public authorities of the various boroughs of the City of New York will be found in the record, the result of which is that apart from any question of making good the shortage of the war years, the average yearly construction of residential houses and apartments judged by the standards of pre-war times, is still far below normal.

3. As instancing the extent of overcrowding, the following figures submitted by Health Commissioner Copeland of the City of New York as the result of investigations in two widely-separated blocks in the City of New York will be found interesting.

These surveys were made at three different periods in 1921: To wit, February 7, September 9 and December 30, and they show that there has been no appreciable relief from congested conditions in this class of buildings.

# HOUSING SURVEY, 1921

## Sanitary Bureau, Department of Health

Block A—E. 112th Street to E. 113th Street—Second Avenue to First Avenue (Italian)  
 Block B—Livington Street to Stanton Street—Columbia Street to Sheriff Street (Hebrew)

	Block A			Block B			TOTALS		
	Feb. 7, 1920	Sept. 9, 1920	Dec. 30, 1921	Feb. 7, 1920	Sept. 9, 1920	Dec. 30, 1921	Feb. 7, 1920	Sept. 9, 1920	Dec. 30, 1921
Number of houses surveyed.....	53	53	50	40	40	40	93	93	90
Number of families.....	930	938	946	564	565	554	1,494	1,503	1,500
Number of persons.....	4,716	4,771	4,797	2,453	2,453	2,280	7,160	7,224	7,057
Number of rooms.....	3,385	3,391	3,391	1,791	1,800	1,802	5,176	5,181	5,193
Average rooms per family.....	3.63	3.60	3.58	3.18	3.24	3.25	3.46	3.47	3.46
Average persons per house.....	89	90	96	61.32	59.97	56	77	77	78
Average persons per room.....	1.39	1.41	1.42	1.37	1.33	1.25	1.38	1.38	1.36
Average persons per family.....	5.07	5.08	5.07	4.34	4.32	4.08	4.70	4.80	4.70
Rear houses included.....	.....	.....	.....	6	6	6	6	6	6

## CHAPTER 4.

### EXTORTION AND ABUSES BY LABOR UNION OFFICIALS.

#### (1) Building Trades Council; Brindell.

At the very threshold of its investigation, your Committee made the amazing disclosure that except as to a few of the building trades, organized labor in the county of New York had come under the absolute dominion of one man — Robert P. Brindell; that under his guidance all the Unions connected with the building trades except the Painters', Bricklayers' and Plasters' had been gathered together in October, 1919, under a single head known as the Building Trades Council; that Brindell exercised absolute despotism over the unions in the Council and that he, together with certain others under his control, were using their positions in the labor world and their control of Union labor in a vast campaign of extorting money from builders and building contractors.

The Council operated under a charter from the American Federation of Labor. It was in the form of a Federation. The unions represented in the Council had a membership of about 115,000. Members of the unions forming this Council did not thereby become *ipso facto* members of the Council. It was necessary for the workmen who were members of the constituent unions also to become members of the Council and to pay initiation fees and monthly dues therein.

The appeal of Brindell to the Unions that thus became constituent members of the Council was based on the following inducements to the various Business Agents who were in control of their respective Unions: (1) That no Union would be eligible to admission to the Council unless the Business Agents were elected for a term of three years; (2) That they were to be paid at the rate of \$75 per week; (3) That through such a combination of forces the respective Unions would be better able, by making common cause, to protect themselves against non-Union labor.

The governing body of the Council was made up of the business agents of the various Unions. The election of these agents for terms of three years made them independent of their Unions and placed them more completely under Brindell's control.

The form of organization was not only inimical to the public interest but a gross injustice to the workingmen. Failing to join the Council, the workingmen even though members of a legitimate Labor Union were prevented from working in and around New York.

Fortunately for organized labor and for the public, the disclosures of your Committee resulted in the conviction and punishment of Brindell and of his chief adjutants and the destruction of his ambitious and far-reaching system of extortion.

When his activities began, there existed in the City of New York a labor union engaged in the business of house-wrecking, which was known as the Zaranko Union. It received its name from its president, Mr. Zaranko. This union was regularly organized and recognized by the American Federation of Labor. Its membership consisted of the most competent and experienced men in that dangerous line of work. When Brindell started on his career of extortion he invited the Zaranko Union to membership in the Council. Zaranko and his men refused, apparently satisfied with their status as a regularly chartered union.

But it was essential to Brindell's carefully planned campaign of extortion that the wreckers of buildings should be under his control, for the wrecking of the old building was the first step in the construction of important buildings in the valuable settled sections of the city.

Brindell accordingly organized a wreckers' union of his own. Many of the members of the Zaranko Union were forced into the Brindell organization. This was brought about by the refusal of the men in the unions that were members of the Brindell Council to work with the Zaranko men. In order to disrupt the Zaranko Union, Brindell inaugurated the custom of calling or threatening a strike on all building operations upon which the workers of Brindell's Wreckers' Union were not employed to the exclusion of men of the Zaranko Union.

Despite the persistent protests of the builders that the Brindell wreckers were incompetent and inexperienced; that the Zaranko men could do the work in less time and at a fraction of the expense, Brindell insisted upon the employment of his men to the exclusion of the others. If a house-wrecking contractor or employer dared to have the building upon the land on which he was about to construct a new building torn down or wrecked by men of the Zaranko Union, he was warned that if he persisted in his

attitude he would find no union labor men when he came to the erection of the new building and this threat was repeatedly carried into effect. In many such instances the offender against Brindell's fiat was compelled to pay tribute for the privilege of beginning the construction of the new building. In this way Brindell delivered a "body blow" to the enterprise at its very inception.

The control thus acquired speedily became a source of large revenue to Brindell through his ability to dictate to the builders, the contractors whom they must employ to wreck the building. He had an inner circle of such contractors who were required to pay him a "rake-off" on every job that he required the builder to give them or upon which he permitted them to work.

## **(2) Brindell's Exactions from Contractors by Calling Strikes.**

The evidence establishes that a veritable "reign of terror" ensued among owners and builders. They rapidly learned to comply with his extortionate demands and in their estimates of the cost of wrecking there was included a sum to represent in some cases the actual amounts agreed to be paid Brindell and in other cases the sums that he would probably extort.

As illustrating the methods employed by Brindell in his corrupt activities and the increased burdens thus imposed upon the construction of buildings by reason thereof, the following illustrations are taken from the testimony:

(1) In the fall of 1919 and the winter of 1920, the Starboard Realty Corporation, of which Mr. Ephraim B. Levy was president, was engaged in the construction of a building on Seventh avenue and 30th street, in the city of New York. Mr. George Backer, a prominent builder, was employed to superintend the construction work. In February, 1920, one hundred and fifty men from the various trades employed on the job went on strike. It was a union job and there was no question of hours or wages involved. Backer called upon Brindell and urged him to call off the strike which was not done. About a week thereafter in the vicinity of the job, two delegates of Brindell demanded \$60,000 to call off the strike and finally agreed to take \$25,000. Levy withdrew \$25,000 from his bank in cash which he delivered to Backer, by whom it was delivered to the delegates for payment to Brindell. The strike was called off and the work resumed as

soon as Backer agreed to make such payment with the same non-union men on account of whose presence the strike was called.

In this case, as in others, Brindell urged as a pretext for calling the strike that non-union men were engaged in erecting the structural steel work on the building. This was a plausible pretext on his part, but in each case in which the money was paid to Brindell or to the representative designated by him to receive the payment, the strike was promptly called off and the men of his council who had struck because of a non-union man on the steel construction immediately resumed the same work and continued on it until its completion.

It should be said for Brindell in this connection that whenever owners, builders or contractors thus bought their peace Brindell always kept his word with his victims.

(2) In or about May, 1920, William Waixel had a contract with the George A. Fuller Construction Company to demolish the Munson Building at Wall, Pearl and Beaver streets. His wrecking crew were all members of Zaranko's Union, regularly organized under the Federation of Labor. Brindell insisted that these workers be taken off the job and wreckers from his Council substituted. Waixel protested that Brindell's men were inexperienced. Finally after being persuaded by the officers of the Fuller Construction Company, he withdrew his men and placed Brindell's men on the job. This was done on the agreement of the Fuller Construction Company to pay Waixel \$35,000 in excess of the contract price of \$12,000. At the time of making this agreement, the Fuller Construction Company had about fifteen jobs in the city of New York under way and every one of them had been automatically stopped. Brindell had further threatened to stop operations on every job of theirs throughout the country. In this instance, his pretext was that the wreckers employed on the job, although Union men, were not members of his Council. Elsewhere in the testimony it appears that practically all the contracts of the Fuller Construction Company were made on a cost-plus basis. It is thus apparent that the \$35,000 excess was charged to cost of construction and paid by the owners of the building.

(3) On or about the 1st of August, 1920, the same Waixel applied to the Thompson Starrett Co. for the contract to wreck a building at 46th street and Fifth avenue. An officer of the latter informed him that his name was not on the list of contractors approved by Brindell. He went to see Brindell who exacted \$1,000



for the privilege of placing his name on his approved list and thereafter a further sum of \$1,000 for securing the contract. Waixel charged the contractors \$7,000 for wrecking the building and took possession of the salvaged material. Brindell thus dictated to the Thompson Starrett Company who should receive the contract.

(4) In July, 1920, Joseph Paterno was engaged in constructing a 13-story building at 105th street and Riverside Drive and a 9-story building at 220 West 71st street. Although both were union jobs, Brindell threatened to call a strike on the ground that the steel erectors were non-union men, but offered to refrain from calling the strike if Paterno would pay him ten thousand dollars. This demand he afterwards reduced to \$5,200 and finally accepted \$3,000, which Paterno paid, and the work thereupon proceeded without interruption.

(5) In February, 1920, Anthony A. Paterno was constructing an apartment house at 227 West 71st street and one at 884 West End avenue. He experienced some labor trouble and Brindell's delegates stated to him that the men employed by him, although members of the American Federation of Labor, were not accredited members of Brindell's council. Brindell's delegates demanded \$6,000 from Paterno for immunity from strike. The demand was finally reduced to \$3,000, which Paterno paid. Thereafter no labor difficulties were experienced on these jobs.

(6) In July, 1920, Paterno Bros., while engaged in building operations at 220 West 71st street, were notified by Brindell that the house wreckers employed in demolishing the buildings were not members of Brindell's council. He demanded that the builder pay the initiation fee required by the council for each laborer on the job. There were thirty-five wreckers employed on the job and the builders paid to Brindell's organization the sum of \$50 for each, a total of \$1,750.

(7) On or about May 20, 1920, Albert Hershkovitz was constructing a loft building on Seventh avenue between 28th and 29th streets. Ignatz Roth was the building contractor. A strike was threatened upon the plea that the steel erectors were non-union men. Hershkovitz saw Brindell at his home on or about May 20th and the latter demanded \$25,000 for his guaranty that no strike should be called on the operation on account of the employment of nonunion men in the steel work or otherwise. Hershkovitz paid to Brindell the \$25,000 in accordance with this

arrangement. The work thereupon continued with the nonunion steel workers. Hershkovitz charged the expenditure to cost of construction.

(8) On or about May 11, 1920, Joseph Goldbatt, as owner, was constructing a building at 21 West 45th street. The wrecking men and the steel men went on strike. The wrecking men were union men. The steel men were the regular nonunion men employed generally throughout the city. Brindell exacted \$2,000 for calling off the strike, which Goldbatt paid. The same wrecking men and the same steel men continued on the job to completion without interruption.

(9) Toward the end of July, 1920, Meyer S. Blumberg was building an apartment house at 74th street and West End avenue. On the pretext that the plasterers' laborers, although union men, did not belong to Brindell's council, the latter called a strike on the operation. One hundred and twenty-five men walked out. Brindell demanded and received \$5,000 for calling off the strike. The same plasterers' laborers who had formerly been employed on the job returned to work with Brindell's acquiescence when the job was resumed and there remained until it was completed.

(10) Mr. Charles H. Wallas was a prosperous house wrecking contractor doing a business of \$350,000 to \$400,000 a year in the demolition of buildings in the city of New York. During the spring and summer of 1920 he had a number of contracts to wreck buildings in different places throughout the city. In most instances, by reason of threats made by Brindell or his representatives to the builder, Wallas was compelled to abandon his contracts. Wallas always employed union wreckers, but Brindell's excuse in each instance was that the wreckers were not members of his Council. As a result his large and lucrative business was completely destroyed and he was unable to obtain any contracts whatsoever in the city of New York.

(11) In February, 1920, Jacob Fradus made a contract with the Garment Center Realty Company for wrecking a building and excavating the site of a new building. Brindell called a strike upon the pretext that Fradus was employing nonunion drivers. Fradus called on Brindell who said: "You know that this organization is not run on chalk; it takes money to run an organization like that and I want you to produce \$25,000 if you want to go ahead with this job." Fradus lost the job. Finally Fradus, unable to obtain a contract from any builder in the city of New

York without the endorsement of Brindell, gave Brindell \$1,000, and was given a letter allowing him to accept contracts for work in his line provided he employ only members of Brindell's council on his jobs.

(12) Max Aronson in May, 1920, was engaged in erecting a building at 229 West 36th street. In October, after the construction had reached the second story, the laborers went on strike. The pretext was that the steel workers were nonunion men. Aronson saw Brindell and Brindell asked him what it was worth to have the job continued. After some negotiations \$5,000 was agreed upon. Aronson paid this sum to Brindell and the work was resumed.

In addition to these instances in which Brindell directly exacted "blood-money" from owners or contractors, similar transactions were made by him through various lieutenants, being business agents in unions that were constituent members of the Council, who carried out Brindell's instructions in extorting money from builders. Prominent among these were Richard Pike, William H. Chapman, Moran and Stadtmuller. Pike was indicted with Brindell for extortion but escaped from the jurisdiction before he could be arrested and has ever since been a fugitive from justice whose whereabouts cannot be located. As the result of prosecutions inaugurated by the Committee, Stadtmuller was tried and convicted of extortion, whilst Chapman and Moran were convicted of coercion and all of them have served prison terms for these offenses.

Brindell was also convicted of extortion in the Aronson case and is now serving a prison term of from five to ten years in the State Prison at Ossining.

It appears that early in the course of these activities Brindell discovered that the then existing situation created by the so-called "Open Shop" struggle of the manufacturers of steel and the steel erectors associated with them could be effectively utilized by him in his campaign of extortion and he proceeded to make the most of that situation. This was the only line of business connected with the building trades in New York city that was not unionized. Under the guise of conducting an open shop the manufacturers of structural steel and the Iron Erectors were, in point of fact, enforcing a non-union shop. They were the only non-union mechanics who would be permitted to work on buildings without involving strikes based upon the employment of non-union labor.

It seems that because of the far-reaching power of the steel men and of their nation-wide campaign against union labor the local unions had surrendered insofar that they were willing to work side by side with these non-union men.

Brindell utilized this condition in the steel trade as a pretext for his extortions when other devices failed. There are many instances in the testimony in which he threatened to "pull off" the men of the Council on the ground that the iron and steel men working on the job in question were non-union men. It was his practice to follow these threats by sending one of his delegates to the owner, builder or contractor, as the case might be, and threaten him that unless a certain sum was paid a strike would be called. The owner, builder or contractor generally yielded and either paid the tribute exacted by Brindell or a compromise sum. Some of the largest and most reputable building concerns in the country were thus compelled to yield to Brindell's demands in order to prevent a strike, not only on the job in question, but on all operations throughout the country in which they happened at the time to be engaged.

### **(3) Brindell's Extortions for Securing Contracts.**

It soon became the custom of builders to accept the contractor accredited by Brindell, upon the mere demand of the latter, and there grew up in the industry an unwritten law according to which the owner, builder or contractor in order to avoid labor troubles on his enterprise would consult with or await the instructions of Brindell before letting out the wrecking contract. On his part Brindell would recommend to the builder the contractor who was ready to pay him the largest bribe for the recommendation. As typical of this particular mode of operation employed by Brindell the following transactions are significant:

On May 4th, 1920, Albert A. Volk received a contract to demolish buildings at 46th street and Madison avenue from the F. T. Ley Company. For his approval Brindell demanded \$2,000. This sum Volk paid and was permitted to complete the contract.

About the same time Volk was awarded the contract for demolition on the site of the new stock exchange building. He bid \$15,000 for the job. Brindell demanded and received \$2,500 for permitting Volk to continue operations under the contract.

The same contractor had a contract for the demolition work for the Garment Center Realty Company at 38th street and Seventh avenue and paid to Brindell \$500 on June 26, 1920.

In July, 1920, Louis J. Cohen, having figured on a demolition job on 23rd street between Madison and Lexington avenues, was compelled by Brindell to pay the sum of \$500 for Brindell's recommendation.

The same contractor on June 17, 1920, paid to Brindell \$500 for securing his approval of his bid to the Fuller Construction Company for a demolition at Rector, West and Washington streets.

Toward the latter part of July, 1920, Cohen paid Brindell \$250 for securing a demolition job at 66th street and Madison avenue. The job was with the Fred French Company.

In the fall of 1920 the same contractor was figuring on a job for demolition on the Manhattan hotel. Prior to securing the contract he conferred with Brindell in reference to securing union house wrecking men and Brindell demanded \$5,000. He paid Brindell \$3,000 on October 7, 1920, and on November 4, 1920, agreed with the Fuller Construction Company for the demolition of the hotel. There was a clause in the agreement that the labor to be furnished was to be indorsed by the Building Trades Council.

Further developing his now thriving and well established business of "graft," Brindell conceived the idea that he might extort money not only from the wrecking contractor but from the builder himself. It should be remembered that contracts for the demolition of buildings are made in such a way that in most cases the wrecking contractor gets the salvage from the wrecked building and pays to the builder a certain sum of money for the privilege of demolishing the existing buildings and removing this salvage. Brindell would ascertain the sum the wrecking contractor intended to bid for the salvage and would require from the wrecker that the bid be split and one-half thereof paid to himself, the other half going to the builder, or some such proportionate sum. In such case the builder and not the building contractor was the real sufferer.

In May, 1920, George Atwell was figuring on a demolition job at 57th street and Broadway. He told Brindell it was his intention to pay \$10,000 for the wrecking job. Brindell stated he could get this job for \$5,000 if Atwell gave him, Brindell, the other \$5,000 and the contract was made on that basis. Between

May 20th and 25th Atwell paid Brindell \$5,000 by his check. It does not appear that the owner or builder knew anything of this arrangement.

About the same time Atwell being willing to pay \$10,000 for the contract to demolish the buildings on the site of the present Loew theatre at 83rd street and Broadway, was informed by Brindell that he could secure the job for \$5,000 if he would pay Brindell a similar sum. Atwell secured the job on the payment of \$5,000 to the builders and \$5,000 to Brindell.

On a job at 17th street and Livingston place, Atwell, in a position to pay \$6,000 for the contract, offered, on the suggestion of Brindell \$4,000 to the builder, secured the contract on that basis and paid the remaining \$2,000 to Brindell.

On a job on 40th street between Fifth and Sixth avenues, Atwell, contemplating taking the job and paying therefore \$1,000, informed Brindell of that fact. The latter requested him to charge \$500 for the job which was \$1,500 in excess of Atwell's original estimate. The contract was closed on these terms and Brindell received the \$1,500.

In order to appreciate the significance of these transactions, it must always be borne in mind that throughout this period, a "request" from Brindell to an owner, builder or contractor was tantamount to a command as Brindell's despotic power was now recognized and it had become universally understood throughout the industry, from the most important builders and contractors such as the George A. Fuller Construction Company and the Thompson Starrett Company down to the smallest contractor, that if they wanted to avoid labor troubles they must never award a contract for the demolition of an old building except to a contractor designated or approved by Brindell and that the "rake-off" must be satisfactory to him.

One of the most striking instances of the extent to which the despotism of this man was carried was found in the case of the Garment Center Realty Co. This was a projected building venture involving considerably over \$1,000,000. Brindell compelled the owners not only to abrogate the contract into which they had entered and which was in course of performance, but required them to admit his nominee into partnership in the new contracts for excavation. He had the hardihood to personally conduct the negotiation for the new contract with the lawyers for the owners and largely dictated its terms, to all of which the owners tamely acquiesced in order to prevent further interruption to their work. They had had one experience, which was quite enough for them.

**(4) Brindell's Extortions for Supplying Workmen.**

In the course of events Brindell became so emboldened as the result of his rapid and constantly increasing power and success and of his supposed political influence and became so daring in his enterprises that he went to the extent of even exacting tribute for permitting workmen in the Council to work for a contractor. The following are instances of this character that are disclosed by the evidence:

(1) H. H. Vought & Company had a contract for erecting a loft building at 96-100 Maiden Lane. They had contracted with Israel S. Goldstein to wreck the old building on the property for \$2,500 and the salvage. Brindell demanded from Goldstein \$1,000 of this money, which the latter refused to pay, and sooner than pay it gave up the job. A wrecking contract was then let to the Interstate Wrecking Company for \$1,000 upon the representation of ~~that~~ Company that \$1,500 would have to be paid to Brindell before the contractors could get the necessary labor from the Building Trades Council. Of this amount \$1,000 was actually paid to Brindell by the Interstate Wrecking Company.

(2) Max Mineson had a contract with William Neal Smith for demolition on the site of the Broad Street Hospital. In order to secure wreckers from Brindell's union, Mineson was required to and did pay Brindell \$1,000.

(3) On or about August 9, 1920, Jacob L. Kamen had a sub-contract for the demolition of a building at Fiftieth street and Eighth avenue. He employed Brindell's men. For the privilege of continuing these men in employment, Brindell exacted the sum of \$500 which Kamen received from the builder and paid over to Brindell.

(4) On or about August 15, 1920, Walter Melton had a contract for demolition at Fifty-seventh street and Fifth avenue. He employed men from Zaranko's union. Brindell insisted on wreckers from the Council. For sending his men to work on the job Brindell demanded and received \$2,500.

(5) Shortly thereafter the same contractor paid Brindell \$500 for permission to use Brindell's men on jobs at Fifty-fourth street and on Twenty-third street and Eleventh avenue.

(6) Frank Melton in August, 1920, had a contract with the George A. Fuller Company for wrecking work in connection with the extension to the Hotel Plaza. Brindell insisted that Melton take into partnership with him on this job one Klompus, and for the privilege of this partnership arrangement, after supplying men from his council, Brindell exacted and received the sum of \$3,000.

#### **(5) Strike Insurance.**

As still further illustrating the magnitude and high-handed character of Brindell's operations and his power in the building trade and that it had grown to such proportions that it could not be combatted even by the most prominent builders in the city, attention is here directed to the testimony of Hugh F. Robertson. It demonstrates not only the viciousness of Brindell's activities, but from an economic standpoint it reveals that every item of graft that went into Brindell's pocket entered directly into the cost of construction in the same manner as the cost of mortar and brick.

In the spring of 1920 Mr. Robertson, a prominent builder, was engaged in the construction of the Cunard building in the city of New York. A strike was called on the usual pretext that Post & McCord, who had the steel contract, were using non-union steel erectors. Mr. Robertson "saw" Brindell and the strike was called off within fifteen minutes by a telephone message from Brindell in Robertson's presence. Robertson's firm was at the same time doing the preliminary work on the construction of the Cunard docks, a job involving \$35,000,000 to \$40,000,000. He mentioned the fact to Brindell, told him he wanted to avoid labor troubles on the job, and invited him to look at the plans.

"He (Brindell) said, 'if you could get "strike insurance" it would be a good thing to have.'" By "strike insurance" it was explained that Brindell meant and Robertson understood Brindell's assurance that there would be no strike on the job.

Brindell and Robertson thereafter met at the Commodore hotel and talked over the advisability of Robertson buying insurance from Brindell against strikes on that job. Robertson acquiesced in Brindell's suggestion, and the latter then stated that the so-called "strike insurance" could be had if Robertson would pay him \$50,000. That amount was finally agreed upon to be paid in installments. At intervals Robertson would meet Brindell,



would drive him around the block in an automobile and would there deliver to him in bills installments of this sum aggregating \$32,000 up to the time of the interruption of the payments by the exposures of the Committee. The building operations were successfully conducted without a strike.

Robertson admitted that he charged the payments he made to Brindell as part of the cost of construction and that the owners would "foot the bill."

In the many piratical undertakings of Brindell, of which the above are illustrations, all accomplished within less than one year, Brindell acted apparently without protest or hindrance of the men around him connected with the council, and as though the 115,000 men connected with the council were mere pawns in his game. His despotic power was complete and unchallenged.

It is estimated that within this short period of from 10 to 11 months he extorted in the ways above indicated over \$1,000,000, all of which was added to the cost of building construction. And yet his reign had just about begun. But for the exposures that resulted in his downfall and punishment and that of his lieutenants the building industry of New York City would doubtless have been completely paralyzed.

Although his operations were conducted in a crude, open and desperate fashion readily open to detection, and he could easily have been trapped, no owner, builder or contractor seemed to have had the courage or the public spirit to have made the slightest attempt to check him in his career of crime and none of the officials in the Building Trades Council were sufficiently solicitous of the good name of organized labor to enter a word of protest. Truly, the spectacle is an humiliating one from every point of view.

## **CHAPTER 5.**

### **LABOR UNIONS.**

#### **(1) Unfair Practices and Requirements by Labor Unions.**

When the Committee in December, 1921, resumed its investigation after a recess of some months, counsel announced that having now shown the obstacles to building created by Brindell, the Committee would thereafter address itself chiefly to another phase of the labor situation due to the increasing despotism and inefficiency of labor, brought about by various provisions in the constitutions, by-laws, rules and regulations and to the practices thereunder of the labor unions in the building trades.

In this connection your Committee examined many witnesses including officers of the Building Trades Council, of the Building Trades Employers Association and officers, business agents and members of labor unions. It also directed its attention to the financial administration and bookkeeping methods of labor unions, as illustrated in the operations of Inside Electrical Workers Union, Local No. 3, which controlled the electrical workers in the city of New York.

That union consisted of about 3,800 members. Its income was derived from weekly cards issued to non-members permitting them to work on union jobs, and without which men could not secure work, initiation fees and monthly dues from members and helpers, death benefit dues and from fines and penalties. It amounted to hundreds of thousands of dollars per year. These sums were paid in cash from day to day. It required the constant services of three cashiers to receive this money. No cash book was kept; death benefits and other bills were paid in cash; the cash as it poured in was under the complete control of the president and treasurer. Some of it was deposited in banks, subject to check (nobody knows what part of it). The treasurer testified that the cash was handed to the president who placed it in the safe, and gave him from time to time cash for deposit or to pay bills, salaries, etc. He also testified that he always had on hand five or six checks signed in blank so that by simply filling in the name of a payee the entire bank account, which sometimes amounted to \$100,000 might have been drawn out and appropriated by an officer who kept no accounts and who gave no bond for his fidelity.

So-called "privilege cards" were issued on payment of \$2.50 per week by journeymen and \$1 per week by helpers. At first these cards were numbered consecutively so that the money could be traced, but subsequently and mainly without any system of numbering so that no check on the number of cards issued was possible. Hundreds of thousands of dollars were thus collected. Your committee discovered accidentally permit-books indicating the issuance of privilege cards to the amount of over \$26,000 of which there was no record whatever and for which no accounting had been made. This represents doubtless a mere fraction of the money unaccounted for. The president of the union by "wills" drawn in his favor by the attorney of the union, became the recipient of a number of \$1,000 death benefits, where no claimant appeared.

This particular source of "income" seems to have been considerable. A periodical pretended audit of the finances was made by an accountant who took everything for granted, assumed his data where it did not exist, and overlooked it where it did, with the result that there was no reliable audit whatever. This man confessed that he had done wrong but could suggest no way of tracing the Union's money.

These practices indicate that by rule or by-law or by statute, if necessary, for the protection of the members themselves, some system of properly checking the receipts and disbursements of labor unions and guaranteeing the fidelity of their fiscal officers should be adopted. The unions have now promised to inaugurate proper systems of bookkeeping and audit, and some of those that failed to do so in the past have now begun. It should, however, be said in justice to the financial officers of labor unions generally that the conditions found to exist in the Electrical Workers Union are not characteristic of any considerable number of the unions connected with the building trades. Some of them have accurate systems of accounting, but in others the methods are lax and offer free opportunity for dishonesty that is incapable of detection.

The practice of the Electrical Workers Union of closing its books to membership and issuing "privilege cards" to non members, by means of which they are heavily taxed for the privilege of working on "union" jobs, prevailed in many other unions. The union thus maintained for itself a monopoly of the work in dull times and in active times a vast source of revenue to the prejudice of other workers in the same line of industry. In the Electrical Workers Union there were 3,800 members, while the

number of electrical workers in New York City numbered over 12,000. Exclusion from the union was not based on even a pretense of required efficiency, but was simply an arbitrary rule.

The union is a member of the Building Trades Council and as such entered into agreements with employers monopolizing, for the benefit of its members, all the electrical work in the city to the exclusion of the many thousands of capable workers willing to join the union who were apparently sufficiently skillful to be permitted to work, at a penalty when building was active, but not sufficiently capable to be allowed to compete so long as members of the union were unemployed.

Another practice of many unions is the limitation of the number of apprentices in a given trade. This is a common provision in the Constitutions of national as well as of local unions. Still another is the exclusion from the privilege of apprenticeship of boys over a certain age, eighteen, nineteen or less. The effect of these autocratic regulations is to create an injurious and intolerable monopoly in the industry against the present and future generations.

Many other rules and practices of the Unions tending to destroy efficiency, delay operations and increase expenses were revealed by an investigation of their Constitutions, By-Laws, Rules and Regulations and by the testimony of witnesses, such as the limiting of the amount of a day's work; classifying the character of work, whereby high-priced mechanics were required to perform the work of laborers; destroying molds, requiring the destruction of models and other devices after they had been once used, although they might be utilized many times for the same purposes; prohibiting the use of labor-saving devices; prohibiting the installation of machinery approved by the public authorities that would economize labor; requiring work to be done on the job instead of in the shop at greater expense; penalizing employers for accepting "inferior work" from the Union's own members instead of disciplining the members for doing such work; requiring the removal of ornamental construction because not up to the artistic standard of delegates, although entirely acceptable to the architect and owner; prohibitions against an owner or contractor sub-contracting for labor unless the sub-contractor is awarded at the same time the contract for furnishing all the materials used in connection with such labor; all these practices and many others too numerous to mention here, coupled with iron-clad agreements between labor unions and employer associa-

tions, as fully set forth in other portions of this report, all of which result in greatly increasing the cost of building construction.

Based upon this evidence of abuses thus disclosed counsel for the Committee prepared and submitted to the Building Trades Council and its constituent Unions and to the other Unions a statement of the various abuses and practices which should be immediately abrogated.

Conferences have been held and are still being held with representatives of these labor organizations throughout the State and with national labor organizations with which the locals are affiliated looking to the elimination of these practices. In many cases agreements have already been reached whereby the Unions have met the requests of the Committee. In some cases the practices are due to International or National regulation, and in such cases the local unions besides acceding to the requests of the Committee, have promised to urge changes by their governing bodies.

There are, however, abuses that have not yet been remedied and other instances in which promises of reform have not been kept.

The Unions have on the whole, with a few conspicuous exceptions, shown a commendable spirit in meeting the suggestions of the Committee. The objectionable practices have grown up gradually, generally based upon a plausible pretext, but in discussing their wisdom the officials have at all times been amenable to reason, their attitude in that respect being in pleasing contrast with the insincere and defiant position of many of the business lawbreakers with whom the Committee has had to deal.

In the judgment of your Committee it is of the highest importance to building construction that the Committee shall continue with the power to urge these reforms and to summon the officials of these Unions before it to ascertain the extent to which they are being put into and kept in effect. Assuming the good faith of the Unions that have agreed to the suggestions of the Committee, it will require months to complete them. As to the Unions that have refused to accede it will be necessary to take further testimony as a basis for constructive legislation and other remedial processes.

The list of the suggestions made by Counsel for the Committee to the Unions embodies somewhat of a summary of the testimony before the Committee and is as follows:

**(2) Changes in Constitutions, By-Laws and Practices Suggested by Committee.**

*December 19, 1921.*

**CHANGES IN CONSTITUTION, BY-LAWS, RULES, REGULATIONS AND PRACTICES OF LABOR UNIONS THROUGHOUT THE CITIES OF THE STATE THAT WILL BE REQUIRED BY THE COMMITTEE TO ELIMINATE EXISTING ABUSES AND VIOLATIONS OF LAW AND THAT WILL BE ENFORCED BY LEGISLATION AND OTHERWISE UNLESS PROMPTLY VOLUNTARILY MADE.**

1. All restrictions on membership must be removed. The books must be at all times kept open for the admission of members who can qualify under reasonable regulations as to character and capacity.

2. The initiation dues shall in no event exceed \$50, and should be payable at the option of the new member, one-half in cash and the remaining half within three months after initiation.

3. All limitations upon the number of apprentices in any trade must be repealed and prohibited. Where there is an age limitation for apprentices in any existing constitution or by-law, it should be increased from the prevailing ages of from 16 to 18 years, to the age of 25.

4. The issuance of permits or permit cards to non-union men with or without pay to the union for such permits as a condition of allowing such men to work with union men or for any other real or ostensible reason, must be rigidly forbidden by amendments to their constitutions.

(The right of membership in the unions to all such men should automatically do away with this abuse.)

5. In order to protect the members of the unions against the misappropriation of their funds and to secure accountability to them by their officials for the use of such funds, the constitutions should be amended, wherever necessary, so as to require accurate books of account to be kept, in which shall be entered and accounted for, all receipts and disbursements. All payments of over \$10 shall be made by check and these accounts shall be audited semi-annually by independent Certified Accountants to be elected annually by the members at the annual meeting at which the officers are elected and at which there shall be presented a detailed account of all receipts and expenditures of the year,

with the right of every member to examine the same. There shall also be mailed to each member a copy of the detailed semi-annual report of the accountants.

6. It must be made plain by appropriate amendments that the unions do not possess the power that some of them are now assuming to exercise, to hale their employers before them and compel them to pay fines into the treasuries of the unions under penalty of being refused union labor. This is a conspiracy to extort money. Unions have no more jurisdiction over employers and no greater right to require them to pay money under threat of injury to their business than they would have to "hold one up" in the street and demand money under threat of injury to his business. Illustrations of instances of this kind appearing from the testimony are:

a. Forcing employers to pay fines to the unions for failing to appear before the executive committee in response to the demand of the latter.

b. Fining employers because members of the union worked overtime for them for double pay but without securing express permission in each instance from the executive committee.

c. Fining employers for allowing painters to fill in plaster cracks when painting the walls and ceilings.

d. Fining employers because the men tick cornices instead of running them on the walls, in violation of the union regulations.

e. Fining the employers for poor work done by the members of the union and compelling employers to have the work done over over at their own expense.

f. Compelling the builder to run casts, plates and molds on the job instead of sticking them and to take down the cast if it is stuck instead of being run on the job, although satisfactory to the owner, the architect and the public authorities.

7. All provisions contained in existing contracts between unions or associations of unions (of which the New York Building Trades Council is an illustration) on the one hand, and Employers' Associations or Associations of Employers' Associations (of which the New York Building Trades Employers' Association is an illustration), on the other hand, giving preferential treatment in the supplying of union labor to such associations over and above employers who are not members of such associations, are to be forthwith cancelled, and all future contracts of

that character are to be expressly forbidden. No employer of union labor in any way connected with the building trades is to be discriminated against by reason of the fact that he is not a member of an employers' association. The amendments should assure every employer of union labor equal treatment. This is important in the interest of the unions.

(In some of the contracts exposed before the Committee, the unions have gone to the extreme length of agreeing not to furnish union labor to any employer who is not a member of the association and are permitting the members of the Employers' Association to charge exorbitant profits on labor (such as in the case of the marble industry in which the employers agreed to pay the union at the rate of \$15.25 per day for a setter and helper, and the union on the other hand agreed that the employers might charge their customers \$28.25 per day for that same setter and helper.) All these agreements and practices are to be terminated. They are contrary to the interests of the union which should leave an open door, and on equal terms, to every employer who maintained a union ship and complies with union conditions.

The constitutions should be so amended as to preclude any union from introducing into the business and affairs of the employer and so as to limit the jurisdiction and activities of the unions to matters that legitimately concern the welfare and betterment of the members. The following are illustrations of the character of abuses sought to be abated by this amendment and against which there are to be specific prohibitions:

a. The dictation by the union to the owner, builder, architect, contractor or other employer or representative of the employer of the character of his contract or the provisions to be contained therein; it always being understood that the union is at all times at liberty to insist that union labor only shall be employed.

b. The requirement in the constitution or by-laws of many of the local unions, and in some cases of the international unions, that an owner or builder who makes a contract for the furnishing of labor must also contract to that same contractor, whether or not he desires to do so, the sole right to furnish the material for that part of the job.

This is no concern of the unions and tends to increase building costs by adding a wholly gratuitous and intermediate profit for the contractor. The owner or builder must have the unrestricted



right to buy his materials directly or through a contractor or to subcontract his work as he may see fit and without restriction or dictation from the union in a matter that does not affect the latter in the most remote degree.

c. If a contractor or subcontractor abandons his contract, the owner or builder must be free to complete the job either by letting a new contract or by days work, as he may elect, without dictation from or interference by the union and all the existing regulations to the contrary must be promptly repealed; provided always that the wages of the men have been paid in full.

It is no concern of the union and not within its province, and is a sample of unmitigated and indefensible arrogance that is without rhyme or reason, to require the owner to finish the job by days work and under a foreman selected by the union, as is now required, although experience has shown that it is vastly more costly than if the owner were permitted to contract for the finishing of the job.

d. The unions in the building trades with which we are dealing do not include the fine arts; plastering, carpentry, brick-laying, and the like, although highly essential trades and perhaps more useful than artists, are still regarded as mechanics and not recognized as members of the arts. They must accordingly abate their intrusions into the domain of art and must especially cease dictating to owners and architects as to artistic styles and character of work that are satisfactory to owners and architects and are approved as to safety and sanitation by the public authorities who are appointed and paid for supervision.

(The instance in which the owner of the new Ambassador Hotel was compelled by the executive committee of the Plasterers' Union to tear down part of a wall in that hotel because the delegate, a plasterer by trade, reached the conclusion that the color and style of the imitation of Travatine marble did not suit his artistic taste, although it was entirely satisfactory to the owner and to the architect, who is one of the most renowned men in his profession in this country, fairly illustrated the extent of this abuse. In that case owner and architect were in point of fact compelled to pull down part of this wall to meet the views of that hyper-sensitive delegate.)

e. The prohibition by the unions of the use of approved machinery and improved methods, tending to economy in build-

ing costs, on the ground that the demand for labor is thereby eliminated or decreased, should be promptly and effectively abated and provided against by appropriate amendments.

A few instances of this character that may be mentioned as occurring to one at the moment as developed by the testimony are:

A. The requirement of the metal lathers that where reinforced concrete is mixed at the shop, where it can be more economically done, and brought to the building, the owner must pay a bonus into the sick benefit fund of the Lathers' Union at the prescribed rate based on the labor cost thus claimed and estimated as saved, of \$6 per ton on cut steel and \$18 per ton on fabricated steel.

B. Compelling an employer to finish his ceiling by using wire lath instead of as provided by the specifications, although these specifications were duly approved by the public authorities.

C. The various prohibitions contained in the constitution of the Plasterers' Union against the use of casts over a prescribed size being manufactured in the shops and the requirement that this work must be run on the walls and ceilings at an expense greatly in excess of the cost of bringing them to the job from the shop.

D. The requirement that models made for plastering, including stock models, must be destroyed after being once used so as to supply more work for the modellers than if the model were used over and over again as would otherwise be done, thus compelling unpardonable economic waste.

E. Preventing the mixture of plaster of paris with Keens cement in the making of mantels, the effect of one of which prohibitions was to prevent the owner from installing the mantels already made and to compel him to recast them. The purpose of the prohibition was said to be to prohibit the owner from adopting this method of making the mantels for the reason that in this way he could manufacture four mantels at the manufacturing cost of one mantel made the other way and thus effect a saving in labor which the union compelled him to forego.

9. Wherever necessary there should be amendments of the by-laws of these unions that will prevent their officials and executive committees from imposing unjust and extortionate penalties upon employers. An illustration of this appearing from the testimony was the requirement that an employer pay one-quarter of a day's wages (\$2.38) to each of the men who claimed that they had been kept waiting ten minutes for their pay.

10. All the existing regulations and practices that restrict the freedom of the owner or builder in the use of appliances that have been approved by the public authorities or that require parts of the work to be done at the building, where in the judgment of the owner or builder it can be better or more economically done in the shop, should be repealed and rendered impossible in the future.

Illustrative of the worst of these abuses is the refusal of the Plumbers' Union to handle or instal the anti-siphon trap; the other is its refusal to handling plumbing and gas fixtures that come to the building with the furnishings attached, because they are more economically attached in that way (frequently by power machinery); but the plumber insists and enforces the demand that he be permitted to attach these furnishings on the job. It should be the province of the man who pays for the work to decide by whom it can be best and most economically done.

11. The existing provisions should be repealed and the unions and their delegates must be forbidden from hereafter exacting regulations that permit them to punish or discipline employers or members for the so-called offense of "rushing" or "driving." Every member should be left free to do as much work as he sees fit to do in a working day. The men should be encouraged to efficiency instead of being fined and discouraged. The regulation is thoroughly demoralizing and undemocratic, and it is destructive of initiative, ambition and individualism. It tends to make slackers and laggards of the men and to deprive them of their self-respect. It measures the best and most upright of them, who want to do an honest day's work for a day's pay, by the standard of the laziest and poorest of his associates and renders the men fearful instead of ambitious to do an honest day's work. There is nothing in all the history of organized labor that is so destructive of the morals of the men and so injurious to the cause and repute of labor. The struggle should be for efficiency. This regulation puts a premium upon inefficiency.

12. There should be taken from the unions by amendment of their constitution, the power to prohibit their members from working more than five days per week or the power to fine or discipline them for working on any day other than Sunday or a legal holiday.

The five-day week that is being enforced by the painters, but only in the cities of New York and Yonkers and nowhere else

in the State, is a serious handicap to building operation. The pretext given for it has been proven to be shallow as is demonstrated by the fact that it is enforced on outside as well as inside work and, as above stated, in only two cities of the State. The man who wants to increase his income and add to the comforts of his family by working a half day on Saturday should be at liberty to do so without interference by his union.

13. Any delegate or business agent who has been convicted and served a prison term for extorting money from employers or for otherwise using his position as a business agent to coerce employers whose work comes under his jurisdiction, should be made ineligible to future appointment or election to that post. The unions should not sell their good names by such defiance of law and by placing it in the power of a man once thus convicted, either to repeat the offense or to wreak vengeance upon the employers who brought about the punishment that he has justly suffered for betraying the confidence placed in him by his fellow members.

14. Regulations should be enacted prohibiting any union, or any business agent of a union, from enforcing a scale of daily work, such as done by Local No. 314 of the Plasterers' Union in Long Island City.

15. In addition to the matters above stated with respect to the plumbers unions, the following regulations and practices of certain of those unions must be abated:

a. Providing that only one helper may be employed to two plumbers.

b. That the helper cannot use tools if the plumbers are using tools on the job.

16. The Cement Masons Union have a provision (section 5, art. 5 of the by-laws), requiring that where two men are employed, one must be paid a foreman's wages, and that where four or more men are employed, the foreman shall not handle any tools. This provision should be repealed as should also section 19 of article 5 and the further provisions that where a delegate of the union decides that an employer is not justified in discharging the shop steward he must be reinstated.

These specific provisions are in addition to all the general objections above set forth.

17. *Metal Lathers.*—The rule requiring the employment of metal lathers on a job wherever concrete is being poured by com-

mon laborers that compels the employer to have a foreman to look on whilst the work is being done by the laborers although there are no lathers on the job, and there is nothing for the lathers to do, is unreasonable, as is also the requirement that if only one man is employed on the job he must receive a foreman's wages.

18. *Painters.* The Painters Union not only throughout the State but throughout the United States have a regulation to the effect that where the office of the employer is located in a city or state other than that in which the work is being done, the employer must pay the members of the local unions who are doing the work the rate of wages that happens to prevail in the city in which the employer lives where the rate is higher than the rate prevailing in the city in which the work is done. There is no reason for such a regulation.

To instance its practical result in the Boroughs of Manhattan and Brooklyn: A contractor or employer with an office in Brooklyn must pay painters on a job he is doing in New York \$1 per day more than they would get if the employer happened to have his office in Manhattan, because the rate of wages in Brooklyn is \$1 more than it is in Manhattan. Why the rate of wages to be paid the mechanic should depend on the place in which the office of the employer is located rather than on the prevailing rate where the job is done, is explainable only on the theory that the unions are assuming to regulate and suppress competition between contractors and so that no contractor in one city will be able to compete on a job in another city. It is a thoroughly vicious regulation.

19. Under section 19 of article 7 of the District Council of New York, the painters allow only one apprentice for every ten men or under, but no shop is allowed more than two apprentices no matter how many men may be employed. If such a limitation upon apprentices is continued, there will soon be only one painter to every ten now in the trade. There is also a regulation in the Brooklyn and Long Island Union limiting the size of a paint brush to 4½ inches in width, the purpose being to have the men do as little work as possible. These regulations should, of course, be repealed.

At a meeting subsequent to the service of these suggestions they were agreed to by a committee representing the Building Trades Council, subject to the modifications embodied in the following memorandum.

### (3) Compliance with Suggestions of Committee.

At a meeting held this 4th day of January, 1922, at the residence of Mr. Samuel Untermeyer, there were present the following:

Mr. Patrick Crowley, representing the Building Trades Council, Mr. Martin McCue, Business Delegate of the Steamfitters Union, Mr. Patrick Drew, Business Agent of the Plumbers Union, Mr. Richard Patterson, President of the Sheet Metal Workers Union, Mr. Thomas Clark, Business Delegate of the Electric Workers Union No. 3, Mr. Samuel Squibbs, Business Agent of the Granite Cutters Union, with Mr. Frank X. Sullivan acting as their Counsel,—these gentlemen together constituting a Committee appointed by and representing the various Unions connected with the Building Trades Council.

The various changes in the Constitutions, By-Laws, Rules, Regulations and Practices of Labor Unions throughout the Cities of the State demanded by the Joint Legislative Committee on Housing were taken up for consideration and agreed to, except as follows:

(1) Regulation No. 2 is amended so as to provide that the initiation fee shall in no event exceed \$75 which shall be payable to the extent of \$25, whatever may be the fee, upon the initiation and the balance in weekly installments of \$5 per week. Wherever the initiation is \$30 or less, it may be payable at one time.

(2) Regulation No. 3 is amended so as to substitute the age of 20 for the age of 25 as the limit for apprentices, and the following was added to Demand No. 3: "All limitations in the various Constitutions, By-Laws, Rules, Regulations and Practices of the Unions looking to the limitation upon the number of apprentices are to be abrogated and repealed. There is, however, no objection to the insertion in the agreements between employers or Employers Associations and Unions to the effect that whilst the employer is not to be limited in the number of apprentices he must not abuse this privilege and that each employer may have in his shop such number of *bona fide* apprentices as may be practicable for the purpose of that particular shop. In the event of differences between the Union and the Employers' Association as to the number of apprentices that in the judgment

of the employer it may be practicable to employ in any given shop, that question shall be determined by the Trade Board."

(3) Regulation No. 5 is to be amended so that instead of requiring that an independent certified accountant be "elected" by the members, he may be "selected," so that the accountants will not be regarded as in any sense members of the Union.

(4) Demand No. 6 is amplified so that whilst the Unions are prohibited from enacting any Rule or Regulation or indulging in any practice looking to assuming jurisdiction over employers or the right to discipline or fine them, nothing in this provision is to be construed so as to limit such legal, reasonable and proper contractual undertakings, agreements and arrangements as the employers and the Unions may see fit to enter into with one another.

(5) Demands No. 8 and No. 10 are not to be modified but are to be amplified so as to make it plain that nothing contained in any of these provisions will require the members of the unions to handle materials manufactured in non-union shops.

(6) Referring to the illustration of the anti-siphon trap in the above. The representation is made that the plumbers are satisfied that this is an unsanitary device and they feel that they should have the opportunity to demonstrate that fact. It is thereupon agreed by Mr. Untermeyer on behalf of the Committee that the Committee will ask the New York City Board of Standards and Appeals upon the request of the Plumbers Union to reconsider its determination heretofore made in favor of the anti-siphon trap, it being the desire of the Committee that no device that is in fact unsanitary shall be used in building construction either in New York or elsewhere. The Committee insists and the unions agree, however, that every device that has been and remains approved by the City authorities shall be handled by the unions regardless of their own opinions on the subject.

(7) The amendment required by paragraph 9 of the changes shall be so construed and acted upon that in all By-Laws to be passed thereunder by the unions, provision may be made for penalizing employers who fail to pay their men until after quitting time to the extent only of requiring such employers to pay double time for the period of delay but in no event shall such penalty extend beyond one day's regular pay.

(8) Demand No. 13 is to be amended so as to contain the following proviso: "Provided, however, that where it shall

appear that any such Delegate or Business Agent was convicted of such offense because of acts done by him by authority of his union, this provision shall not apply."

(9) With respect to the charge that union plumbers will not work upon a job without a helper, the union delegate denies that there is any such regulation or practice and claims that they favor having the journeyman work on the job without a helper. Whatever there is to this complaint is said to be a burden imposed by the master plumber without the encouragement of the union.

The demands as above modified are to be approved by the Executive Committee of the State Federation of Labor and to be forthwith carried into effect by the various locals throughout the State.

The Bricklayers, Carpenters and Painters Unions of New York county are not members of the Building Trades Council. The local Bricklayers, Masons and Carpenters Unions have agreed to the changes but their action must in certain respects be ratified by their international unions, which is understood to be formal, but the Painters Union continues to refuse its assent to abrogating its restriction upon the number of apprentices and it may become necessary to take legal proceedings.

The transactions heretofore referred to in this report dealing with labor conditions and their effect upon building construction necessarily constitute only a proportion of those revealed by the testimony before the Committee and undoubtedly constitute but a proportion of similar cases that have burdened the building industry. It is difficult to summarize the testimony on this or any other branch of the inquiry within the reasonable or readable limits of a report.

#### **(4) Incorporation and State Regulation of Labor Unions.**

As a result of the laws and practices of Labor Unions connected with the building trades as disclosed by the Committee, there has been widespread discussion of the advisability of requiring these Unions to be incorporated or of subjecting their affairs to rigid State supervision.

Your Committee finds no justification or necessity for any such action at this time. The numerous reforms suggested by the Committee have been agreed to by most of the Unions. If, after a reasonable time has elapsed in which to put these reforms into effect, it is found upon further investigation that there is substantial opposition among the Unions and that they cannot



be put into effect without legislation, your Committee will so report and will then recommend the character of the laws to be passed.

We find, however, no general disposition to oppose these reforms. They have on the contrary been very generally agreed to and will doubtless be put into force.

So long as such organizations as the National Erectors League and the Iron League, to which more detailed reference will hereafter be made, are permitted to operate without the requirement of incorporation or supervision and are allowed to use all manner of means to exterminate organized labor, and so long as illegal combinations that have been thriving throughout the length and breadth of the land, such as are elsewhere described in this Report, are permitted to go unchecked and unregulated, it would be unfair and inequitable for the law-making power to impose supervision upon the Labor Unions, especially so long as the latter are actively and in good faith endeavoring to bring themselves within the law and to correct whatever abuses in their organization or practices are pointed out to them. In our opinion no such unjustifiable discrimination should be made.

The State is tolerating many unincorporated associations that are not subject to supervision that are in our judgment more urgently in need of State regulation than are the Labor Unions.

## **CHAPTER 6.**

### **COMBINATIONS TO FIX PRICES AND RESTRICT COMPETITION.**

#### **(1) General; Eddy's Book.**

Although your Committee was aware in a general way of the existence of illegal combinations in the building trades it is amazed at the all-inclusive extent of these vicious conspiracies.

In almost every branch of the many activities that enter into building construction we found these combinations rampant and unchecked and competition completely throttled. The result was accomplished by all manner of devices, from the flagrant matching of bids and illegal combinations between employers and employees associations, to the surreptitious agency of the apparently innocuous Luncheon Club, under cover of which production was regulated, territory apportioned and prices fixed between ostensible competitors.

We have been unable to find any branch of the industry other than the members of the Master Builders Association in which there was free competition, such as the law demands.

Nor is this situation by any means confined to the industries connected with the building trades. Evidence of its existence in many other directions was incidentally encountered.

Confining our attention now to the topic of the building industry, with which alone your Committee is dealing, we find that throughout the length and breadth of the country producers are combined with producers; manufacturers with manufacturers; dealers with dealers; workingmen with workingmen. Not only do these combinations extend horizontally between the members of the same class, but vertically from the members of one class to those of another.

There are combinations between the manufacturers and the dealers; between producers and manufacturers; between dealers and unions of workingmen, so that the whole industrial and commercial system in the industries connected with building construction is riveted in an interwoven and interlocking criss-cross of combination and obligatory arrangement. Competition in price and output of these essentials is held under the incubus of

a pyramid of combinations extending from the workingman and the retailer and reaching its apex in the original producer.

Although agreements in restraint of trade are almost as old as the common law, the highly developed systems and methods of strangling competition that now exist are the growth of comparatively recent years.

In 1912, Mr. Eddy, a member of the Illinois Bar, published a book entitled "The New Competition." It was a treatise on the economic principles that Mr. Eddy had employed in organizing combinations between many prominent formerly competing industrial and commercial concerns. Among the specious theories advanced by Mr. Eddy in his book in defense of his contention that these arrangements are not destructive of competition and are therefore not within the condemnation of the law, the following concrete examples are taken verbatim from the edition of 1917:

"Competing in the open, with full knowledge of all the conditions influencing others, no man would make a ruinously low price or an arbitrarily high one."

"It is not easy to persuade men that bidding below cost to beat a competitor is poor policy, but it has been demonstrated, and in this respect the new competition is better than the old. It is not easy to convince courts and legislatures that rivals in the same trade or industry can get together without entering into illegal agreements, but they do and that is another of the good results of the new competition."

"That in these days it is not uncommon to hear men say that they have a little Association but they never talk about prices, that they just lunch and talk over things generally, but don't agree on prices, meet for the fun of the thing and that some of them travel a thousand miles once a month for the pleasure of lunching together, but that such childplay pretenses do not deceive anybody and that no self-respecting lawyer would permit clients to make such futile statements to a court."

"That it is almost as common to hear men say that they have an Association but don't agree on prices, that one gets up and says that his price is so and so and the others get up and say their prices are so and so, and the result is that the price of everybody is so and so, that naturally they don't agree what they shall be. They just exchange views and let prices take care of themselves."

Mr. Eddy's book is typical of several similar works that have appeared in recent years. The doctrine of these writers and the unwritten theories that lawyers and leaders in the business world have invented for the purpose of suppressing or regulating competition have permeated every field of the industrial world, and we find that business men, large and small, have enthusiastically embraced the so-called "new competition," applying its principles sometimes with a show of keeping within the law and the dictates of morality and sometimes more bluntly and crudely, but with the same result, as in the case of Hettrick, putting these theories into practice in such a way as to strip themselves of the appearance of "keeping prayerfully within the law."

At no time was there an honest basis for the pretext that the organizations of competitors under the so-called Eddy or "Open Competition Plan" and similar devices to evade the Anti-Trust Law was intended to serve legitimate business purposes. The exchange between competitors of detailed information of their business, even though as claimed, it related only to closed transactions, could serve no purpose sufficiently valuable to repay the expense of maintaining these costly organizations or to justify the disclosure of business secrets. The ultimate object is always found to be in the direction of restricting prices or output, or both.

The United States Supreme Court has fortunately within the past two months put an end to all this "pretense" in the *Hardwood Lumber* case, in which one of the apparently most innocuous of these "Open Competition" organizations has been denounced as an unlawful combination.

Until that decision was announced, a number of the combinations of manufacturers of building materials, of which the cement trust claimed to be an example, were operating under cover of these claims.

The cost of construction of buildings in recent years has been grossly and unconscionably inflated to proportions largely in excess of what should be the real cost by reason of the widespread elimination of competition among manufacturers, jobbers, contractors and retailers in every branch of the industry.

Your Committee established the fact that many of these organizations existed for the ostensible purpose of legitimate cooperation but actually for the purpose of disclosing to and comparing with each other their estimates upon jobs, fixing prices, matching

their bids, apportioning territory, restricting output, and distributing to their members quotas of supposedly competitive business without competition and at highly inflated prices.

An owner or builder letting out work on contract had no access to a competitive market or to any means of reducing the bids to the levels that economical construction required. Such a market did not exist. He submitted his plans and specifications to prospective bidders who were supposedly competitive and the latter sent them to a central agency which prepared an estimate of costs for all members of the agency or organization and not infrequently revised the bids so that the work should be distributed in rotation free from competition. Needless to say, these estimates insured an excessive margin of profit. A member of the organization then took the contract at a pre-arranged price with the consent of and under an arrangement with the other members. Obviously the builder instead of securing the lowest price on the job was fraudulently compelled to pay the highest price that was demanded.

Of all these organizations, the associations that were organized and directed by John T. Hettrick, were the most crude and unscientific in their defiance of legal safeguards but in principle and results they were no worse than the others.

## **(2) Deliberate Arrangement of Bids on Specific Jobs; Hettrick.**

Hettrick was the organizer and the guiding spirit of three large local organizations that were active in and around New York city: The Plumbers' Association, the Steam Fitters', Heating and Ventilating Association and the Greater New York Cut Stone Contractors' Association. They were small transactions when compared with any one of a dozen or more of the Nationwide combinations that were subsequently dissolved.

The members of the Hettrick associations paid to a "trustee" a certain percentage of their gross annual business for what Hettrick terms "insurance." The percentage ranged from three per centum downwards, according to circumstances. In addition, Hettrick received from the members of each organization his fee of one per centum of the gross annual business. He started his operations in this field in 1915 by forming the Plumbers' Association. This organization consisted of thirty-two members — some corporations, others firms and still others individuals. He also

organized the Steam Fitters' Heating and Ventilating coterie and the Cut Stone Contractors' Association. The last-named organization was a local association connected with a central or international body known as the "International Stone Cutters' Association," of which Hettrick was also the representative insofar as concerned its activities in the Metropolitan District.

Each of these organizations operated under a so-called "Code of Practice" which Hettrick adapted to local conditions. The method by which these three organizations eliminated competition between their respective members and incidentally swindled and deceived the contractors and the public by posing as competitors and pretending to estimate against one another differed in some respects from that which has been commonly practiced by other organizations of a similar character but the underlying principle was the same. Taking the Plumbers' organization as an illustration, it was about as follows:

It was the duty of every member upon learning that estimates were about to be taken for a job to send Hettrick a card to the effect that the member intended to bid on that job. This was followed by a card of another color from Hettrick advising the member what should be his bid. When the member had completed his estimate it would be sent too Hettrick. With these various estimates before him he would make whatever changes were necessary in order to apportion the various jobs among the members in the manner which he believed to be equitable and so as to give to a member whose turn it was to receive a job that particular job. Those that were too low to permit the particular member to take the job allotted to him, were increased so that this member became the lowest bidder. His estimate was frequently increased but the others were increased proportionately so that he should get the job.

Having thus determined what sum each of the members should bid, in sending in his estimate to the unsuspecting owner or contractor who believed he was actually receiving competing estimates, Hettrick would send a card of still another color (the colors of the cards differed in the different organizations) to each of the persons who had sent him their proposed estimates, which would either correct the estimate as sent or state that it was correct. It was in accordance with this routine that millions of dollars of plumbing, steam fitting, heating and ventilating and

limestone contracts were awarded in the city of New York by the unconscious victims of this system.

Inasmuch as Hettrick's commissions depended upon the amount realized on the various contracts, it was to his interest to fix the prices as high as possible, thereby increasing his "insurance" and commission.

The uniformity of purpose and cohesion of action by which the members of the various Hetrick group acted is shown by the practice of the Associations when any member engaged in what was considered a violation of the "Code of Practice." The secretary of the Cut Stone Association testified that the rules of the organization required all estimates to be recorded with the association before the contract was taken. Whenever there was suspicion that a member had violated this rule by taking a contract without first filing and securing the approval of his bid, any other member was at liberty to make complaint and thereupon all bids were opened before a general meeting of the members.

Illustrative of this procedure is the following letter addressed to the Greater New York Cut Stone Association by the Atlas Stone Workers, Inc., of June 19, 1920, which states:

"The member Bernstein Cut Stone Company has taken a job to the amount of \$500 without recording his bid and without getting a bid from Hettrick as per our rules, therefore making a complaint to be heard to the complaining committee in charge."

In another letter addressed to the organization by Purcell Bros., Inc., bearing date of September 22, 1920, the writer says:

"We hereby request the opening of bids filed for stone work for alteration to building at 46 West 40th St., New York City, as we are informed that this contract has been taken by the Lavania Cut Stone Company, one of our members, without the formality of filing their bid."

From the testimony of Mr. Henry Hanlein the routine of Hettrick's scheme is clearly disclosed. Hanlein was a member of Hettrick's organization and testified that before the members sent in any estimates they were supposed to fill in a card and return it to Hettrick; then they made their estimates after sending their first card and sent the estimate to Hettrick; he sent a card stating whether the estimate is approved; "if he did not

approve the figure of the second card he might probably call the member by telephone and tell him that his figure was not correct and that he had made a mistake."

"Q. By Mr. Untermeyer: He does tell you what figure to name; that means after you get that figure from Hettrick you put in the estimate at the figure he tells you? A. Yes.

"Q. That means, doesn't it, that he has had before him all the figures that the members propose to estimate on a given job? A. Yes."

Further testifying the same witness explained his relations with Hettrick as follows:

"Q. In many cases he gives it to some other man and makes you raise your estimate? A. I think he has done that.

"Q. That is, in order to apportion the work and get better prices? A. That may be his intention.

"Q. You know it is your intention, is it? A. I want to get all the work I can.

"Q. And you want to get all the money you can, as good prices as you can? A. Certainly.

"Q. And that is the reason you went into the Hettrick arrangement, wasn't it? A. Certainly.

"Q. Don't you see that it plainly and clearly is an arrangement in restraint of competition? A. We were told it was not.

"Q. Who told you? A. Hettrick.

"Q. And you believed him? A. Yes."

The same witness also informed the Committee that Hettrick frequently rang him up after his estimate and told him to put in an estimate on a different figure.

"That was raising the estimate, and if he put in a higher estimate he did not get the job and Hettrick knew that, he did that in order that some one else might get the job who was more entitled to it because he did not have the amount of work that he ought to do."

Hanlein also testified that if it appeared at stated periods that a member had received an over-allotment of work, an adjustment was made between him and the other members of the association.



In order to induce these men to accept his assurance that the scheme was legal Hettrick pointed to a portrait of the then and since lamented Chief Justice White of the United States Supreme Court which he had hanging in his office and assured them that he had approved its legality.

### **(3) Hettrick's Relations to City Contracts.**

The corrupt influence exercised by Hettrick in the business world was boldly extended by him so as to include contracts let by the city of New York. But for the timely interposition of your Committee and its exposures the city would probably have been mulcted out of many more millions of dollars. As it is the city has been unquestionably cheated by Hettrick and his associates and the members of the associations that he controlled to an estimated extent of not less than \$5,000,000.

Hettrick succeeded in securing the substitution of lime-stone for terra cotta in the construction of school-houses and in foisting limestone upon the City for these schoolhouses at prices fixed by matched bids.

It was impossible for the Committee in the limited time at its disposal and the many subjects requiring investigation to inquire into each of these public school contracts. The following taken from the testimony are fair illustrations:

John Aisenberg was an employee in Mr. Hettrick's office. Aisenberg identified the various cards used by the respective bidders in connection with the lime stone contracts for Public School 144 in Brooklyn. Testifying with reference to the cards, Aisenberg showed that on this job the estimates filed in Hettrick's office by the intended bidders were respectively: \$10,403; \$11,345; \$11,340; \$10,989. As evidenced by Hettrick's annotations in lead pencil, these estimates were changed by Hettrick so that the first was raised to \$12,403; the second was unchanged; the third was increased to \$11,940 and the fourth raised to \$11,589. After the changes made by Hettrick, the members of the group put in the altered bids to the City as ordered by Hettrick. The result was that the bidder at \$11,345 received the contract although in open and honest competition the City would have let the contract for \$10,403.

A similar manipulation of bids is disclosed by the record in connection with Public School No. 43 in Brooklyn. On

that job there were five bids for limestone work. Hettrick also caused to be put in another bid known as an "accommodation bid" to deceive the city authorities into believing that competition was active and extensive. Before the bids were put in to the City the members filed in Hettrick's office the following estimates for the job: \$4,405; \$3,996; \$3,987; \$2,583 and \$3,767.50. Again Hettrick's magic pencil boosted the first figure to \$4,705; the second figure to \$4,925; the third figure to \$5,150; the fourth figure to \$4,283; the fifth figure to \$4,980. Hettrick then put in an "accommodation bid" in the name of one of his members for \$5,260. The job went to the member who had bid to the city \$4,283 on Hettrick's suggestion, although the same member had been willing to do the job for \$2,583.

The City was again defrauded in connection with the cut stone work on Public School 83. For this work five contractors sent in original estimates to Hettrick's office. The following were the figures: \$8,530; \$7,020; \$8,280; \$8,085; \$9,320. Under Hettrick's revision the same contractors put in their bids to the City at the following figures: \$9,030; \$8,970; \$9,280; \$9,285; \$9,520. For the purpose of creating the impression that there existed a competitive market, Hettrick directed one of the members to put in a bid of \$9,150. The juggling resulted in the forcing upon New York City of a bid of \$8,970 for the work which the successful bidder on the basis of honesty and fair competition could have done for \$7,020 according to his own estimates.

It has been impossible to accurately determine the extent of the frauds practiced on the City through the Hettrick combinations alone. The extent of these frauds through other combinations is unknown. Confining ourselves now to Hettrick's activities, and apart from the limestone contracts, the City was unquestionably swindled out of millions of dollars in these school contracts through "matched bids" for plumbing work and on the heating and ventilating contracts that were awarded separately from the plumbing.

In this connection it should be borne in mind that the Law requires the City to separately award plumbing contracts and heating and ventilating contracts. These two items cannot be given to a general contractor. With respect to these the agreements are made directly with the City.

A single illustration of the many cases disclosed will suffice to make clear the uniform method adopted both in the plumbers organization and in the heating and ventilating organization under Hettrick's direction in dealing with the City of New York:

Hettrick's cards showed that there were five bidders on the heating and ventilating contract on Public School No. 100. The estimates for this work as submitted to Hettrick showed the following figures: \$92,770; \$95,790; \$95,670; \$94,681; \$94,000. By Hettrick's directions these figures were revised by the several members as follows: The first bid of \$92,770 was changed to \$101,500; Hettrick directed that the second bid of \$95,790 should not be put in; the third bid of \$95,670 was changed to \$101,500.82; the fourth bid was changed from \$94,681 to \$102,000; the fifth bid from \$94,000 to \$101,440. By means of this fraudulent re-arrangement of bids the Wells & Newton Company appeared to be the lowest bidder at \$101,050 although that Company had signified its willingness to do the work for \$94,000 and their competitor, Gillies & Geohagen had estimated the job at \$92,770. A significant annotation in Hettrick's handwriting on one of the cards contains the following:

"City of New York appropriated \$105,000 to cover this work," from which it will be noted that the bids were lifted so as to consume the appropriation.

The revelations of which the above constitute but a few illustrations having to do with school-houses built in the City of New York came in many cases too late to save the City from being victimized by this combination. Plumbing, and heating and ventilating contracts to the extent of many millions of dollars made under those collusive conditions had been partially performed. Counsel for the Committee insisted that the parties to this fraud should not be paid and demanded that the Corporation Counsel advise that the contracts were void as they manifestly were. He did so advise the Board of Estimate in writing and it was supposed that these payments would be contested.

It was subsequently ascertained, however, to the amazement and chagrin of the Committee, that within a few months after this advice was given, the payments to these bidders was made under the advice of the Corporation Counsel upon the deduction of the insignificant and absurd amount of 1 per cent from the contract price.

The revelations of which the above are illustrations with reference to the frauds practiced upon the City in the construction of school-houses and the insistence of the Committee did, however, lead to the rejection of estimates for school-houses for which contracts were then about to be made. The estimates on those school-houses were \$63,110,624. As a result of re-advertising for bids for the same and two additional school-houses, the revised bid was \$50,481,960, showing a saving (allowing \$1,000,000 for each of the two additional school-houses) of about \$15,000,000 as a direct result of the Committees exposures.

These few instances of frauds practiced upon the City are merely illustrative of what it must have suffered in the way of extortion from combinations in the various lines in the few years preceding the beginning of our inquiry. All public works were affected in the same general way from the operations of these illegal combinations although the methods employed to throttle competition differed in the case of each industry.

Some faint conception of the effect of these conspiracies on private construction may, however, be gathered from the few experiences of the City above cited the many that appear in the record.

It was proven by the testimony of the officials of the two largest building contracting corporations in the United States,—the George A. Fuller Company and the Thompson-Starrett Company, —together doing an annual business of over \$160,000,000 that they were confronted by the extortions of these combinations on substantially every item that enters into building construction in such basic materials as cement, brick, iron, sand, stone, glass, plaster, lumber, flooring, plumbing, heating and the like. The bids were invariably juggled and in many of the cases were uniform to a penny, regardless of where or from whom they were taken.

In some industries the exactions were so intolerable that these concerns started and operated their own plants to furnish their requirements.

It will be quite impossible within the required limits of this Report to present an adequate picture of the desperate situation thus created. There are thousands of pages of testimony dealing with this subject from every angle which cannot even be adequately summarized here without extending this Report to unreadable lengths.

Suffice it to say that the building industry was held in a vise from which there was apparently no escape until the grip of these combinations was partially relaxed by exposure and punishment but the work of exposure is still far from complete and the more effective restraint and warning that will come from the punishment of the offenders is just about fairly under way.

In the bulk of the cases, it has been impossible as yet to present the cases to the Grand Jury. There are at least twenty or more such combinations still involving upwards of 600 parties awaiting action by the Federal and State authorities.

Perhaps the most striking instance of Hettrick's operations with the City of New York and of their effect upon the City Treasury is to be found in the facts surrounding the award of the contract for the stone work on the then contemplated Courthouse. It had originally been not only contemplated but actually specified that the structure should be of granite, when Hettrick appeared upon the scene on behalf of the members of the same Limestone Ring for which he had been successful in procuring the alteration of the specifications for the public schools from terra cotta to limestone.

The Courthouse limestone ring consisted of nine of the members of the Hettrick limestone combination.

Having had limestone substituted for granite the nine Limestone conspirators who were to be interested in the bidding, met in Hettrick's office and entered into a written agreement (which was destroyed when the representatives of your Committee raided Hettrick's office with a search warrant) by which Henry Hanlein, one of their number, was to become the sole bidder and the others were to refrain from bidding and in consideration thereof were to have the privilege of participating in the work under Hanlein.

Hanlein's uncontested bid was accordingly submitted by arrangement with his co-conspirators for \$1,840,000 on which Hettrick was to receive a commission of 3½% or \$52,000 for his "services" in securing the change in the specifications and in rigging up this iniquitous swindle upon the City.\*

Strangely, although there were over 30 Limestone Contractors in New York City, the fact that there was only one bid did not

---

\* This Limestone contract was at the rate of \$9 per cubic foot whilst the same kind and quality of Limestone and of equal market value was being furnished to the private buildings then in course of construction in the City of New York at from \$4.50 to \$5 per cubic foot, showing that the city was being swindled on this one contract to the extent of upwards of \$800,000.

arouse the suspicion of the City authorities. The contract was awarded to Hanlein as the sole bidder and was actually executed when the advent of the Committee and its exposures blew the scheme into fragments.

#### **(4) Sub-Contracts for Public Work in New York City.**

The present requirement of the New York City Charter, compelling the City authorities to readvertise and relet contracts where a contractor has abandoned the job or defaulted on his contract, is defective, in failing to properly protect the City, and has resulted in heavy losses to the City.

Section 419 of the Charter provides that in case any work shall be abandoned by the contractor:

“It shall be readvertised and relet by the appropriate Borough President or the head of the appropriate Department in the manner in this section provided.”

This section requires that the entire contract be readvertised and relet by the City without the City receiving the privilege of adopting any of the existing subcontracts which the principal contractor may have made, even where the adoption of such subcontracts would be most advantageous to the City.

The result of this has been to release subcontractors where it would be most advantageous to the City to adopt certain of the subcontracts and to insist upon their completion. An illustration of the unwisdom of this inelastic provision was strikingly brought to the attention of the Committee in the case of the contract for the construction of the Cumberland Street Hospital in Brooklyn where there was reason to suspect that the contractor being irresponsible and the City not having taken proper security for the performance of the contract, the price of labor and materials having substantially advanced since the making of the contract, the contractor deliberately defaulted on his contract for the express purpose of releasing the subcontractors, and they thereby became released.

The law in its present condition does not permit the City upon such a default to adopt such subcontracts as are advantageous to it and to insist upon their performance. The failure of the contractor automatically releases the subcontractors.

In the case of the Cumberland Street Hospital the original bid for the completion of the job was \$557,000. The contractor be-

came bankrupt after about two-thirds of the work was finished and paid for and the City was obliged to relet the balance of the contract for completion at \$663,000, so that the building which was to cost \$557,000 to complete cost the City upwards of \$1,000,000. This was due largely to the fact that the City was unable to adopt the existing subcontracts.

The same subcontractors were in the main employed by the new contractor to complete the work. They charged in most cases almost as much, and in one twice as much, to complete from one-half to one-third of the balance of their contracts as the total sum reserved to be paid them for their entire work by the original contracts.

In this connection your Committee recommends that the Charter be so amended as to provide that where a principal contractor abandons the work or makes default in the performance of his contract and is excluded from completing it or where for any reason the City cancels his contract it may adopt the subcontracts made with the defaulting contractor and may readvertise and relet the balance, and that when such subcontracts are so adopted the subcontractor shall be obligated for their performance in the same manner as though the principal contractor had remained on the work or as though their contracts had been made directly with the City.

Such a provision does no injustice to the subcontractor whilst, on the other hand, it removes from dishonest or irresponsible contractors the incentive to abandon their contracts for the benefit of subcontractors who desire to be relieved from their obligations.

## **CHAPTER 7.**

### **RELATIONSHIP BETWEEN BUILDING TRADES EMPLOYERS' ASSOCIATION AND BUILDING TRADES COUNCIL.**

Before listing and analyzing in a general way the various combinations, reference should be made to the Building Trades Employers Association (hereafter referred to as the Employers Association) and the Building Trades Council (hereafter referred to as the Council) and to the relations between them.

The activities of the Employers Association are confined mainly to the City of New York, although its members include many of the leading employers connected with the building trades whose operations extend throughout the United States. It is a subsidiary of or affiliated with the National Building Trades Employers Association, an organization that extends throughout the length and breadth of the country, which has upwards of 3,200 concerns on its roll of membership.

The membership of the Employers Association is about 1,000. It is composed of members of constituent associations of employers in the various industries connected with the building trades and includes also individual and firm members. The total invested capital represented by its membership runs into millions of dollars. This local organization is managed by a Board of Governors. It has a Constitution and By-Laws that are enforced by its members under compulsion of fines and penalties.

As heretofore stated, the Council is an association of upwards of sixty Labor Unions connected in one way or another with the building trades with a total membership of upwards of 115,000 men. When it was organized its then President, Brindell, was given despotic power in that by the express terms of its Constitution the appointment of all the officers and members of the Executive Committee was lodged in him.

The Employers Association and the constituent associations entering into its membership are more largely than any other single factor responsible for the acts that have done so much to cripple building operations in the City of New York. Various combinations above referred to (to some of which reference will hereafter be more specifically made), found protection under the sheltering wing of the Employers Association. It was largely through the assistance and encouragement of this Association



by reason of the character of its contracts with the Council and with other labor Unions that these constituent associations were able to force unwilling members into their fold and to impose upon them unlawful restraints upon competition.

Many of such constituent associations were a mere cover for price-fixing, restriction of output or division of territory and for the practice of the many other devices that had for their purposes the exaction of tribute from owners, builders and contractors.

Members were supposed to join the Employers Association solely to be in position, through that instrumentality and through the other constituent associations that were members of the Employers Association to deal as a unit with the Labor Unions that were banded together under the leadership and protection of the Council. If the Employers Association had confined its activities to that legitimate purpose, it would have been of valuable aid in stabilizing labor conditions. Whenever it is properly reorganized and is so limited it will be a stabilizing and valuable factor in the industry.

That was the ostensible purpose of its organization but it went or permitted its constituent member associations to go far afield and to use the Association and the constituent associations to persecute and destroy contractors and employers who did not want to become members of these constituent associations. This it did through its constituent associations by means of conspiracies between those associations and the Council, to which reference will hereafter be more fully made. The relations between the former officials of the Employers Association and Brindell and his chief lieutenants were very intimate. Brindell had apparently almost as much power among the officials of the Employers Association as he had in his own Council.

Your Committee has been unable to discover a single instance in which a prominent member of the Employers Association was a victim of Brindell's extortions.

The most vicious feature of the dealings between the Employers Association and its constituent associations and the Council, is found in the written agreements made by the Council or members of the Council, on the one part and the Employers Association or its constituent Associations on the other. There are many such agreements. They provide in effect that the Union in question will furnish no labor to any person, firm or corporation that is not a member of the Employers Association or of one of its constituent Associations so long as the member employer requires the service of workmen who are members of that Union.

The agreement between the Metallic Furring and Lathing Union and the Employers Metallic Furring and Lathing Association is a type of the provision that appears in many of these agreements. It reads as follows:

“Section 6. The party of the second part (the Union) agrees that before supplying men to other employers it will supply a sufficiency of competent journeymen and foremen when they are wanted to do the work of the members of the Metallic Furring and Lathing Association required under this agreement and without delaying the work of the members, following which the employer will employ such men as he can obtain.”

The clause above quoted placed in the hands of the Employers Association the most effective instrument that could be devised to compel all employers to enter the ranks of that Association. It was clearly intended to have that effect and it accomplished its purpose. No employer who was not a member of the Association could whilst business was active and labor was in demand secure the labor required in his business while the Union was obligated preferentially to furnish labor to the concerns listed on the roll of membership of the organization and to furnish them all the labor they required before an employer outside the Association could get labor on any terms.

It develops that not only were other concerns forced thus into these Associations that were under the wing of the Employers Association but that the latter went to the extreme length of circularizing the industry, insisting that outside employers join the Association or suffer the fatal disadvantage arising out of their inability to secure Union labor.

The Employers Association extended to its members other advantages that acted as a compelling force on outside concerns to become members of the Association. Article 12 of its Constitution provides as follows:

“To promote and maintain harmony between the different members, it is recommended that the members of the Association shall place all orders for work requiring labor at the building in any trade represented on the Board of Governors with members of this Association.”

While this constitutional provision is worded as a mere recommendation, it was put into practical effect in such a way that it became mandatory and its infringement was punished by the call-

ing of strikes by the Council. This pressure was exerted with apparent harmony of action between the Employers Association and the Council. Indeed, the term "recommend" appears to have been mere camouflage in the light of the construction placed by the Association, upon this provision in circular letters that were spread broadcast among the members of the Association, of which the following is an example:

"Your attention is called to Article 12 of the Members Constitution. It is essential for the best interests of the Building Trades Employers Association that this clause be lived up to by the members more strictly even than the clause requires. And the surest and quickest way of doing so is to carry out the simple conditions mentioned in Article 12 of the Constitution \* \* \* You are therefore urgently requested to investigate the question of membership in the Building Trades Employers Association before awarding your contract and request and insist that your respective sub-contractors join the Association if they are not already members."

The situation thus developed whereby the Association monopolized to itself, largely through the influence exerted by the Council, all the building business in and about the City of New York.

There was still another step: Delegates or Business Agents of certain of the Unions in the Council were actually hired by these constituent Employers Association to force their competitors into these combinations under threats of strikes. Business Agents of the Plumbers Union were tried and convicted and served prison terms for that offense. Business Agents of the Steam Fitters Union are now under indictment and about to be tried for the same offense. Many employers members of constituent Associations of the Employers Association who have since been indicted and brought to trial for their participation in these combinations have proven by way of extenuation of their offenses that they were thus driven into membership in these Associations and into the perpetration of these illegal acts under threat of ruin.

Other similar activities on the part of Constituent Associations of the Employers Association with the knowledge and approval of the Association will be referred to in another place. Among the many unfinished duties of your Committee is the completion of the investigation of the Employers Association.

## **CHAPTER 8.**

### **OPEN PRICE AND OTHER ASSOCIATIONS IN RESTRAINT OF TRADE.**

The following is a brief sketch of the activities of certain of the manufacturers of and dealers in materials connected with the Building Trade:

#### **(1) Masons' Supplies; General Conditions.**

Lime, brick, cement, plaster and sand are among the most important items entering into building construction. These five materials were supplied in the City of New York by and were under the control of a group of manufacturers and dealers classed generally under the head of Dealers in Masons Building Material Supplies. The operation of this group in relation to these five items are typical of the practices of the concerns engaged in supplying other materials necessary in the building industry. The recent history of the business of lime, brick, cement and sand is to some extent similar to the history of all the business connected with the building industry.

Mr. Hugh White, Vice-President of the George A. Fuller Construction Company, testifying in December, 1920, showed the market conditions in these five staples in the months preceding his testimony. He testified that in June, 1920, he asked for and received quotations from eleven different concerns for brick. The uniform price bid by all eleven was \$30.75 per thousand at the building site and \$25 per thousand alongside the dock. On account of the conditions imposed on the trade by the various interlocking associations requiring that purchases must be made only from the dealer and that the merchandise could not be had from the manufacturer although his goods were at the dock exposed for sale, Mr. White could not buy alongside the dock.

He was compelled to deal with the middlemen. On the same job he received quotations from eleven different concerns for cement, ten of whom quoted \$4.50 per barrel and one \$4.60. Other witnesses and important builders who asked for various bids for cement at about the same time received in every instance uniform bids. It made no difference from what section of the country the cement was to come or what was the quantity required the price

was the same. If a builder required cement at the city or town where the cement factory was located he would have to pay the same price as though it was transported 500 miles by rail and handled three times. Whenever the price rose it rose automatically all over the country and whenever it fell it fell with automatic uniformity regardless of the quantity, the expense of delivery or of any other consideration.

Mr. White testified further that *the builder cannot buy cement from a manufacturer but must take it through the dealer; that he must make his purchase from dealers within his district and that he must buy his cement from the dealer from whom he purchases the brick.* This was found to be true throughout the East.—An owner, builder or contractor cannot buy brick from one manufacturer or dealer and cement from another; in fact he can buy neither brick nor cement from the manufacturer and he cannot buy either from a dealer without buying the other, demonstrating not only a combination between the manufacturers of and dealers in cement and another combination between the manufacturers of and dealers in brick but a further combination between the manufacturers of and dealers in cement and the manufacturers of and dealers in brick.

On white cement Mr. White asked for and secured quotations from ten dealers. He received a uniform bid of \$7.20 per barrel from each and all of them, showing that there was no competition whatever. On hydrated lime his experience was the same. He secured eleven quotations, all at \$20.50 per barrel. (The Committee has not yet reached the investigation of the manufacturers of lime.) On white sand there were nine quotations each at \$5 per yard.

On another job in September, 1920, Mr. White received the following quotations for the respective materials:

On brick thirteen quotations at \$22.70 and one at \$22; on cement fourteen dealers quoted uniformly at \$5.10 per barrel. These fourteen firms were scattered all over the United States. It would have cost some of them many times as much to deliver the cement as it would have cost the others. On white cement there were eleven estimates, each at \$8.20 per barrel; on hydrated lime there were fourteen bids, all at \$23 per barrel and on white sand eleven dealers quoted \$5 and one quoted \$6.

Estimates on other jobs that Mr. White's Company had under construction showed the same result.

Mr. Louis Horowitz, President of the Thompson Starrett Company, recounted the same experiences concerning the rigid uniformity of prices on jobs on which his Company had asked for and secured estimates from all the leading dealers in the only district in which he was permitted by the combination to secure estimates.

It is beyond question that there was absolutely no competition in these commodities. The market was rigidly locked as in a vice by arrangements between the manufacturers and dealers that eliminated from the field of competition all except those who were parties to the combination. As to some of these items, this network extends over the entire country. It is buttressed, not only by price-fixing understandings but by district or zoning agreements and other rigorous conditions regulating the conditions of purchase and sale.

How ruinous was this situation is exemplified by reference to prices for the same commodities that prevailed during open competition. In commenting upon these conditions your Committee is not unmindful of the higher cost of labor and of every constituent element that enters into manufacturing as compared with pre-war conditions. But allowing for all this and comparing the prices of the various commodities that we have been discussing as they prevailed in the period of stringency above referred to with the prices of the same commodities before the war, we find the following:

The price of sand and gravel had risen from 25 cents to \$1.15, although dug from the same pits and although machinery is used today where hand labor was formerly employed and there is now very little labor connected with the digging of sand.

The cost of dumping had risen from 25 cents per cubic yard to 75 cents in the same period.

The cost of excavation from 95 cents per cubic yard to \$4.

The cost of labor in excavating from \$1.75 to \$8 per day.

The price of brick from \$8 per thousand to \$30 per thousand with sporadic drops in the pre-war price where it went as low as \$5.75 as against a price in excess of \$30 per thousand in 1920.

The price of cement rose from 90 cents per barrel in 1914 to \$5.10 per barrel in 1920.

## (2) The Cement Combination.

The evidence discloses that under the title of "Cement Manufacturers Protective Association," the cement business throughout the Eastern District of the United States and in fact throughout the entire country is a virtual monopoly and that the eastern branch of the combine rests in hands of 19 manufacturers who are associated together under the above title. The largest producers of the country are among its members, including the Atlas Cement Company, the Lehigh Portland Cement Company and the Alpha Portland Cement Co.

The aggregate business of this group exceeded fifty million barrels per year at the time this subject was under investigation. The Eastern organization was connected by the most intimate affiliation and exchange of detailed information with the two other central organizations controlling different sections of the country. Periodically the section groups exchanged detailed data concerning each and every transaction in each territory and thereby brought about and maintained a uniformity of trade and price conditions throughout the country constituting one of the most flagrant and dangerous monopolies in the building industry.

A complex reporting system for the purpose of controlling prices maintained by the Eastern Association required each member to make a daily report to the Association of all business done by that member. These reports were exchanged daily between all the members of the organization, each being obliged to report on a form card every contract closed. These cards were mimeographed and immediately sent to every other member of the organization. Besides this daily disclosure and exchange of the business of each member to each and all of the others, the Association issued bulky quarterly printed books or bulletins specifying every contract made by each member for specific job-work with all the details of the contract. Each of the three Associations covering various sections of the country had the same system and exchanged such information.

A comparison of the voluminous quarter-yearly reports shows absolute uniformity of price in any given period. There were wide fluctuations in the price of cement between 1915 and 1919 but it fluctuated constantly upwards and when there were price changes they were uniform and instantaneous with mathematical precision.

The Vice-President of the Alpha Portland Cement Company emphasized this uniformity of price when, in answer to questions he said:

"I don't know of any variation between the price of my closest competitor and myself to the extent of one cent a barrel at any time in two years."

The uniform advances in the market price of cement by this combination and the dates of changes in price are shown by reference to the manufacturers prices in New York City up to November 1, 1920, which were as follows:

	Per barrel
January 1, 1920.....	\$2 65
March 29 .....	2 75
April 7 .....	2 95
April 23 .....	3 35
June 18 .....	3 65
July 13 .....	3 90
October 4 .....	4 09

These prices include the bags or cloth-packages.

In order to maintain a famine market for cement and so that the manufacturers would know from day to day what stocks were on hand and would be able to regulate their production accordingly, two primary regulations were enacted and rigidly enforced:

(1) Dealers were allowed an advance supply equal only 15 days.

(2) Where a contractor required cement for a particular job he was required to execute an agreement that the cement delivered would be used only for the purpose specified in the contract and on that particular job. If any cement remained after the job was completed he was under obligation to return it so that by no possibility could a stock be surreptitiously accumulated.

In order to further enforce compliance with these provisions by the purchaser, the Association maintained a vigilance system with a staff of inspectors throughout the territory to check up the supply on hand at the various dealers and the uses to which their stock had been put.



Although the manufacturers are said to have discontinued their previous methods, the information recently received by the committee and the continuing uniformity with which the prices of cement are changed from time to time indicates that this combination is still operating in other forms, notwithstanding the fact that its members are under indictment.

### (3) Brick.

The testimony of Marvyn Scudder, an expert accountant employed by the Committee in relation to the cost of production to the selling price of brick indicates the inflated prices at which these arch-prophiteers of the industry compel the public to pay.

Basing his conclusions on an examination of the books of the Empire Brick and Supply Company, which is the largest manufacturer of brick in the State, by direction of the Committee it appears from Mr. Scudder's figures that for the first six months of 1920 the cost of brick delivered at the job in New York City was \$11.25 per thousand for which the Company realized \$28.75 per thousand.

A number of the brick manufacturers were also members of the Association of Dealers in Masons Building Materials in New York City. The membership of this Association included manufacturers, jobbers and dealers. There were three different branches connected with this central body:

- (1) The Hudson River Brick Manufacturers Association.
- (2) The Builders Supply Bureau of Manhattan and Bronx.
- (3) The Masons Supply Bureau of Queens and Brooklyn.

(A) *Hudson River Brick Manufacturers' Association.*—The operations of the Hudson River Brick Manufacturers Association were conducted largely through an organization known as the Greater New York Brick Company.

The Hudson River Brick Manufacturers Association was composed of all the large manufacturers of brick along the Hudson river. They supplied the Metropolitan district. These magnates of the industry from time to time held informal meetings at the Palantine Hotel at Newburgh, N. Y., at which the general conditions of the trade were discussed and the prices of brick were agreed upon. The actual fixing of the price was, however, effected largely through the activities of the Greater New York Brick Company.

The manner in which these prices were fixed is testified to by William K. Hammond, one of the manufacturers who acted as his own selling agent:

"A customer who wants a load of brick will tell me what the others supply him with bricks at and I will call up these parties, my competitors and they will confirm it and say 'Yes.' The market price is quoted usually by the agent to his manufacturers daily and on one day the manufacturer would ask why his brick is not sold and usually says he wants an advance in brick and up goes brick pretty generally within a few days \* \* \* the agents quoting uniform prices."

Uniformity of price and monopoly were assured by scrupulous enforcement by the manufacturer and the dealer of the rule that no dealer would buy from a manufacturer and no manufacturer would supply a dealer who was not a member of the parent organization.

Frank L. Holmes who was the sales agent for the Greater New York Brick Company was asked in this connection the following question by Mr. Untermeyer:

"What I want to know from you is the name of anybody who is not a member of the Association who you know is not a member of the Association to whom you make sales of brick? A. I can't tell you that."

The Greater New York Brick Company is a stock corporation organized by various brick manufacturers along the Hudson river. The stock was distributed to the members in proportion of the business done by them. The President, Mr. Fowler testified that the Company developed into a sort of an exchange or selling agency for the manufacturers of the State and that the original purpose of the Company was to make uniform prices.

(B) *Builders Supply Bureau*.—The Builders Supply Bureau (which is said to have been dissolved since the indictment and plea of guilty of its members, including the brick manufacturers, but as to the genuineness of whose dissolution the Committee entertains grave doubt) was in a sense a subsidiary of the Association of Dealers in Masons Building Materials. Its operations extended over that part of the Metropolitan District comprising Manhattan and the Bronx. It was a counterpart of the Masons Supply Bureau which operated in Brooklyn and Queens and which claims also to have suspended its operations following the

indictment and plea of guilty of its members (but as to the genuineness of which suspension the Committee has not yet been able to make full inquiry). The methods of the two bureaus were identical. Both were essentially price-fixing Associations.

Both Bureaus embraced in their membership all of the important dealers in Masons Supplies in New York City. They functioned along the following lines:

Whenever a member made a quotation on any commodity, he was required to file on that day with the Bureau a card variously described as a "Quotation" or "Option" Card. The members were then notified by the Bureau of the quotations thus made.

Emma C. Schmitt, the Secretary of the Brooklyn Bureau, testified that as to each transaction she prepared a slip of paper on which she wrote "So and so have this day let an option on a job" and forwarded it to the other members. She stated that "it was practically a part of the routine."

The quotations of the various members having been thus divulged to all other members the standardization of the prices became a simpler matter. In order that it might appear on record that contracts were actually closed upon the basis of these fixed or standardized prices, the rules required that each member should file with the Bureau what was known as a "Contract card." This card disclosed the terms on which the transaction was consummated and showed the prices charged for the material.

The evidence conclusively establishes that this card system resulted in a rigid uniformity of price. The card system was supplemented by weekly meetings of the members of the Bureau. At all such meetings and indeed at all times the cards, both "Quotation" and "Contract" were accessible to the members of the Bureau and open to their inspection.

In order to maintain a more vigilant supervision over its members to guard against infringement of the rules with respect to the filing of cards and to limit production the members were further required to make monthly reports to the Bureau showing the stock on hand of each member on the first day of the month together with a statement of shipments made during the previous month. The methods employed by this Bureau followed in a way the so-called "Eddy" system, otherwise known as the "New Competition by Open Price Associations." It placed in the hands of the dealer the most effective machinery for stifling competition and fixing prices.

(C) *Association of Dealers in Masons' Building Material.*—This Association was composed of 42 members and included both manufacturers and dealers in its membership. It was organized in 1900. Its jurisdiction extended over the City of New York except as to certain outlying portions of the City. Up to the year 1919 the Association sent out to its members who were dealers a monthly sheet showing the prices prevailing in the market for the commodities in which the members did business but at about the time of the investigation by the Mayor's Housing Committee for which the Counsel for your Committee acted for a short time and exposed the methods of this Bureau, the practice of sending out this price-sheet was discontinued.

The power of the Association continued, however, to be exercised in the enforcement of its Constitution and By-laws under which most of the dealers in New York City were forced into its membership. Article 21 of the By-Laws provided that no member who was a manufacturer should sell any material to any dealer within the jurisdiction of the Association unless such dealer was a member of the Association.

As a result of the rigid enforcement of this provision every dealer in and about the City of New York was compelled to become a member of the Association or go out of business. Although the organization seems to have discontinued its practice of directly fixing the prices of materials, it continues to maintain its vast power for evil by keeping its members solidly in line as a monopoly in masons' building material. Inasmuch, as before stated, it was part of its unwritten law and apparently a law enforced by arrangement with the Cement Manufacturers that no person could buy brick from a dealer unless cement was purchased from the same dealer, it became impossible for an outside dealer to compete with a member of the Association in the sale of building material. If a builder should defy this rule by buying his brick from an outside dealer, he could get no cement.

(D) *Masons' Supply Bureau of Brooklyn.*—This Association, as before stated, was also a member of the Association of Dealers in Masons' Building Materials. It was organized in February, 1918, at which time it had 16 members. The Bureau operated on a card system identical with that of the Masons' Supply Bureau of Manhattan. Member were required to file every day in the office of the Bureau a card showing the estimates made by each member on each job. This card was called the "option card."

Members were also required to file in the office of the Bureau what was known as a "contract card" showing the amount at which the contract was closed. They were further required to file with the Bureau a monthly report showing all shipments made during the preceding month and the amount of stock on hand on the first day of the month in which the report was filed. The option cards were open to inspection of all members.

#### **(4) Sand, Gravel and Broken Stone.**

The New York City market for sand, gravel and broken stone was found to be absolutely within the grasp of a small clique of wholesalers and dealers in these commodities who in turn were at the mercy of two producers — the one, the Goodwin-Gallagher Sand Corporation, dealing in sand and gravel, and the other, the New York Trap Rock Corporation, which had a monopoly in broken stone. The former company was organized with a nominal capital of \$8,000,000. In the year of the investigation it did a business of about 1,350,000 yards, amounting to \$1,800,000. This Company was the outcome of the absorption of six or more smaller concerns which prior to their elimination were engaged in healthy competition.

The control of the market was effected through the instrumentality of The Sand and Gravel Board of Trade, a New York corporation organized in June, 1919, at the instigation of these two leaders of the respective industries. The Sand and Gravel Board of Trade embraced in its membership all the dealers in the Metropolitan district. Directly with the members of this Board of Trade, or indirectly through the Board of Trade, the members were tied up with two agreements by which it was made compulsory for them to buy all broken stone from the New York Trap Rock Corporation and all sand and gravel from the Goodwin-Gallagher Sand Corporation or from wholesalers who purchased their supplies from the latter. There being but one principal producer of sand and gravel and only one producer of broken stone, it is obvious that the market for these commodities was at their mercy.

The dealer's price for sand to the consumer was fixed by resolution of the Sand and Gravel Board of Trade at stated periods. The membership of the "Board" were subject to inspection and visitation by its officers and their books were open to examination. They paid a fee in proportion to the business done by

them. Under these conditions it was inevitable that the prices of these commodities should be and they were more than doubled and their exactions were becoming more and more intolerable when your Committee began its exposures.

They were indicted in the Federal Court, and before the Counsel for your Committee knew that they had been indicted they pleaded guilty and were let go with a fine. At least 95 per cent of their business was within the State of New York, as their sand pits were mainly in Long Island and their deliveries were in New York City. All this occurred in 1920.

The investigation of the Trap Rock Company was suspended almost at its threshold. It is the understanding of your Committee that it still maintains a monopoly for the furnishing of broken stone not only to the City of New York but to all the cities and towns along the Hudson River and in neighboring sections, and it is the intention of your Committee if its powers are continued to resume that investigation in the hope and expectation of restoring and enforcing competition.

#### **(5) Marble Industry Employers Association.**

This Association consisted of 36 members. It operated under a Constitution and By-laws and a Code of Practice which together constituted the most arrogant and flagrant illegal set of regulations that has been brought to the attention of your Committee. It was a local body affiliated with and part of a Central or National body which was governed by a National code similar to the local code and equally arbitrary and irregular.

Under an arrangement between the local and the national bodies the entire country was divided into zones. The local organization was given exclusive jurisdiction over all territory in the City of New York and within a radius of 25 miles whilst the remaining part of the country was allocated to the National Association. Under this arrangement the members of the local organization were prevented from estimating on work or doing any business outside the 25-mile limit whilst the members of the National organization were forbidden to invade the territory over which the Local Association was given exclusive jurisdiction. The respective districts were thus placed under the subjection of the two monopolies, the one included in the parent Association and the other in the local organization.. A contractor or dealer in marble located in the City of New York or within a radius of 25

miles from the City, could not estimate on work outside that territory.

In like manner a member of the National organization whose business was located outside the 25-mile limit could not compete for a contract within the 25-mile limit.

The members of the local organization thus entrenched against competition, proceeded to force every dealer within the City limits into its association and to practice the most extreme forms of extortion by the following, among other, devices:

(A) It entered into an agreement with the Building Trades Council on May 1, 1920, adopting a schedule of wages to be paid its workmen, all of whom were required to be members of the Building Trades Council.

It adopted a resolution fixing the price that the members must charge to owners or builders for the various classes of labor covered by the agreement made with the Council and the latter on the other hand undertook that the Association might charge and that it would do its share toward enforcing the payment of this tribute by builders, contractors and the public at large. According to this schedule the Council fixed per diem rates of wages that would be paid by the Association members to its members and the latter in turn fixed the rates that the public must pay.

The schedule is a long one but the following illustrates the extent of the extortion thus practiced:

The Association was to pay to Union workmen:

Foreman cutter and helper \$16. Charge the customer, \$28.

Polisher, \$8.50. Charge to the customer, \$13.75.

Helper, \$7. Charge to the customer, \$11.25.

Foreman, \$10. Charge to the customer, \$16.25.

(B) The Code of Practice of the Association required each member to file with the Secretary all requests for bids on work. These estimates were made subject to the inspection of all members, the manifest purpose being to stifle competition.

(C) The members were forbidden to sell material exceeding a certain range of cost unless the purchaser coupled his purchase with a contract for the setting of the marble.

(D) If an owner or builder called for bids on a job and rejected the bids because they were too high or for any other

reason he was precluded from thereafter letting the work to any other than one of the original bidders.

On this subject Mr. William K. Fertig, secretary of the Association, testified as follows:

Q. by Mr. Untermeyer: "I am trying to find out what conceivable justification there is for such an arrogant and arbitrary regulation as that, whereby, with 36 members in your Association, if a man asks for four bids and he finds they are greatly exaggerated, he cannot reject those bids and ask for 4 more from other members of the 36 members of your Association? Why should he be prevented from doing that?"

A. "The code of practice is the custom in our trade."

Q. "Don't you see that paralyzes competition?"

A. "It may."

Q. "Don't you see it?"

A. "It may appear so."

Q. "It appears so to you?"

A. "It does."

(E) In order to more effectively carry out its unlawful purposes, its agreement with the Labor Unions was utilized as a powerful weapon. By the terms of that agreement any person, firm or corporation engaged in a similar business who was not a member of the organization or any member who had been dropped from its rolls found it impossible to do business. The Unions would not supply men to them or if they had theretofore supplied the men they would withdraw them. As evidence of the close collaboration between the Association and the Union, the following episode taken from the testimony of Joseph G. Siegel is illuminating:

Siegel is a builder. In May, 1920 he was engaged in altering a hotel and an office building. He asked for six bids for the marble work. All the bidders except Daniel M. Rader, who was the lowest bidder, were members of the Association. Rader's bid was \$5,700 against the bid of Charles M. Gray, Association member, of \$9,700.

After Rader went to work the delegate for the Marble Cutters Union notified Siegel that if Rader went ahead they would stop the job and call off all the mechanics in the other trades, although it was admitted that Rader employed only Union men.



Siegel continued as follows:

"The following then occurred. R. Dahaney (delegate for the Marble Cutters' Union) said: 'I am sorry, Mr. Siegel, but we warned you two weeks ago not to allow Mr. Rader on the job. In spite of that you went ahead and proceeded.' Two days later Mr. Dahaney pulled all the other trades off the building. I called Dahaney and he said 'I have got orders from Mr. Brindell to pull this job.' The best thing for me to do was to go out and get one of the men who belonged to the Association to do the job. He gave me a little book which contained the names of all members of the Marble Trade Industries Employers Association. They all said they were too busy or did not care to bid on the work. Mr. Gray said that he was willing to do the work at the price he submitted originally (\$9700). I told Mr. Dahaney, that it was not fair that I could not get competition and that I was being held up. He said that I would have to take one of the Association men. I got in touch with the owners and they decided to plaster the walls and omit the entire marble work in the building. I told that to Mr. Dahaney and asked him if he would allow the other trades to go back as we were not going to use any marble. He said, 'You intended to put marble in this job and you are going to put it in, otherwise you will have a monument on your hands instead of a building.' I told the owners and they said the best thing was to give it to Charles M. Gray and I closed the job with him. I told Dahaney that I had given Gray the contract. The next day the trades went back to work."

(F) The Association went so far in its arrogant and monopolistic acts after prohibiting employers who were not members from securing Union labor as to refuse membership in this organization to employers who were thus forced either to join or go out of business. Morris H. Petigor having established the Oceanic Marble Company for the purpose of disposing of the products of another corporation (tile), in which he was interested, took contracts for marble work on various buildings throughout the city. In each instance he was notified by delegates from the various Unions connected with the Council that he could not have Union men because he was not a member of the Employers Association, or of its constituent Associations.

He thereupon sought admission, first to the Marble Industries Employers Association. Membership was refused. He then sought individual membership in the Employers Association where his application was again rejected. He was compelled to sub-let contract after contract for marble work to members of the Employers Association at advances amounting to 45 per cent over his original contract and at a great loss to himself. Petigor testified that a delegate waited on him in reference to a contract for marble work at 425 La Fayette street and demanded that he immediately assign the contract or cease to do any work on the building:

"I told him I would not do it and he said: 'If you don't do it we will put you out of the tile business the same as we put you out of the marble business.' He said that 'You know that my word goes. When I say it, I do it. I did it with the Oceanic and I will do it with the Howden Tile.'"

Q. By Mr. Untermeyer: "What effect has all this had upon your marble and your tile and your mosaic business?" A. "It ruined me."

Joseph Cardillo testified concerning another of the many flagrant violations of law of this Association. According to Cardillo: the members before putting in a bid on a job acted in concert and arranged the bid in such a way that the lowest bidder would be far in excess of the legitimate price and had an understanding between themselves that the excess of the successful bid over the fair price of the work would be divided among the conspirators. This was done with respect to many jobs throughout the City. Cardillo testified that a certain job was figured for \$7,000. It was decided that one of the bidders should put in a figure of \$9,500, another \$10,000, another \$10,500 and another \$11,000 and that the difference between \$7,000 and \$9,500 which was to be the lowest bid should be divided. In like manner another job was figured at \$5300 and the lowest bid was raised to \$7,500, the difference being divided.

#### (6) Steel and Iron Pipe.

Organized effort to control the prices of commodities used in the building industry has not been confined to formal Associations. The evidence discloses that in many lines of business groups of competitors gathered together at stated intervals for the

the purpose of fixing and controlling prices. In many cases these informal gatherings were for all practical purposes as effective as, and in many cases more effective, in restricting competition than the regularly organized Associations.

Typical of these groups is the one engaged as jobbers in the wrought iron and steel pipe and fittings business. Eighteen dealers representing the largest manufacturers in the country in this line of business, each doing an annual business of over half a million dollars and together controlling the industry in Greater New York and the surrounding territory, were accustomed to meet at luncheon parties. This custom originated 'way back in 1899 and 1900. Originally no pretense was made that the meetings were for any other purpose than that of fixing prices. Although the witness who testified concerning these luncheons disavowed any intention on the part of the participants in the meeting to fix prices, it developed from the evidence and seems to be a reasonable conclusion therefrom that the practice of fixing prices was continued.

After these periodical luncheons one of the leaders of the party was accustomed to send out to the trade and his competitors price lists. He testified that he did so in the hope that his competitors would follow the prices indicated on such lists which they invariably did, conforming with great fidelity to these prices. "The rise or fall" after the sending out of these lists was uniform throughout the trade.

The jobbers in the Metropolitan district as well as the other jobbers throughout the country, numbering upwards of 200, were banded together in a central organization known as "The National Iron Pipe Supply Association," with headquarters at Pittsburgh, Pa. The head organization has been in existence for about ten years. It holds annual conventions.

The testimony thus far taken on this subject indicates that the industry is in the hands of a close monopoly. Throughout the United States there are only nine manufacturers of wrought steel pipe and only four manufacturers of wrought iron pipe. Of the latter it might be said that practically there are only two. These manufacturers quote prices to the dealers with absolute uniformity year in and year out, and have done so for many years.

Mr. Charles G. Cornell, Jr., of the firm of Cornell & Underhill was a member of these "luncheon parties." His firm does over \$1,000,000 a year business. He testified among other things as follows:

"There was a time when we very openly fixed prices at these meetings. That began about the time the luncheons began. The luncheons began for the purpose of fixing prices. I know we have mended our ways. I think there is a great uniformity in the price of wrought iron pipe in this market. The price varies. It goes up uniformly and when it goes down it goes down uniformly. I suppose all the members of this luncheon party change their price-list at the same time.

"My best impression would be that my competitors send out lists at the same time and that I thought their list price was the same as mine. I would not say that I am the pace-maker in this affair. Prices are usually uniform. The usual procedure is that the National sends out the prices and that the others follow. It does not make any difference where you get the steel pipe, it is about the same price."

Thus far the Committee has been able to examine only this one witness on this important topic which enters so largely into the cost of building. It should be pursued further with a view of breaking up this combination that your Committee has every reason to believe is still operating.

#### **(7) Eastern Soil Pipe Association.**

This Association consists of ten leading members in the industry who dominate the entire territory in the Eastern part of the country from Baltimore, Md. to Port Chester, N. Y. Like similar organizations it operates a reporting system by which members notify the Secretary of all prices quoted by them and he in turn notifies all other members. Prices have been kept at an unvarying level.

The activities of this Association are particularly vicious. Not only does it effect and maintain a uniformity of price but it has further directed its efforts to the exclusion from the building industry of several up-to-date improvements in plumbing, the effect of which would have been to reduce the requirements for soil pipe and thus materially decrease building costs. Experts have testified that whilst heavy soil pipe is invariably used in the construction of certain buildings medium weight pipe could readily be substituted without injuring the quality of construction and that a saving of from 40 per cent to 50 per cent in this material could thus be affected. This Association maintains

agencies in various parts of the country for the purpose of retaining these burdens upon building so that the volume of its business will not be interfered with.

It has also been the mainstay of the struggle against the introduction in the City of New York of anti-siphon traps that are used in other jurisdictions in plumbing systems and have been authorized and adopted by the public authorities throughout the country, including the Board of Standards and Appeals of the City of New York. It is largely through the activities of this Association that the introduction of the anti-siphon trap in this City has been prevented. To that end the Association operates in conjunction with the Plumbers Union which is likewise interested in putting in as much pipe as possible whereas the anti-siphon trap does away with the use of a large proportion of the soil pipe, particularly in residential buildings.

The Secretary of the Association admitted that his Association has vigorously fought for the exclusion both of medium soil pipe and of the anti-siphon trap from building construction in New York City.

#### **(8) Associations Manufacturing or Dealing in Plumbing and Steam-Heating Apparatus.**

Frank S. Hanley testified on May 9, 1921, in relation to various Associations of Manufacturers and Jobbers in Plumbing, Steam-Heating and other supplies, including the Central Supply Association and the Eastern Supply Association which embraced in their membership practically all the manufacturers and jobbers of plumbing and steam-heating supplies in the United States. He is the organizer of those Associations.

He likewise organized and manages the Sanitary Potters Association which covers the manufacture of earthenware throughout the country, the Enameled Ware Manufacturers Association and the Range Boiler Manufacturers, the latter of which includes in its membership all the manufacturers of range boilers in the United States.

All of these Associations are price-fixing organizations. They are manipulated by means of a market letter sent out from the central agency to which the members are expected to conform. Unless a jobber is a member of the Association he is unable to procure supplies from the other members. The By-Laws of the Eastern Supply Association provide that if any member in good

standing becomes involved in any law-suit by reason of his obedience to the By-laws, the costs and expenses are to be paid out of the funds of the Association.

The Soil Pipe Manufacturers are members of the Eastern Supply Association and have been using the Association to fight the anti-siphon trap and other similar devices that would tend to decrease the cost of building construction and that would save labor.

Max Fisher testified on May 5, 1921, that the Master Plumbers Association fines a man \$500 for every anti-siphon trap installed. Testifying with respect to a particular job he said:

“By using the anti-siphon trap I would have saved between 45 per cent and 50 per cent of the cost.”

Samuel Hopkins testified that in some cases it is 60 per cent cheaper to install the anti-siphon trap.

According to the testimony of Thomas McKeon, the trap has not made much progress in the City of New York on account of the opposition of the Master Plumbers Association and of the Plumbers Union. It cuts down the labor cost about one-half. The public pays the price for the joint opposition of the employers and the employees. Several other witnesses testified that the Plumbers Unions have adopted resolutions imposing fines upon members who install fixtures not properly vented, meaning the anti-siphon trap.

John P. Leo of the Board of Standards and Appeals of the City of New York stated in substance that the real objection of the Master Plumbers and the Journeymen to the anti-siphon trap was that it would require less material from the soil pipe concerns and less labor to install. His Board has approved the use of the trap.

Anthony Joyce gave similar testimony as to the attitude of the Plumbers Associations, both employers and employees, with respect to the so-called “Victory” washbowl. He stated that if attempts were made to install them strikes would be called on the job notwithstanding the fact that these bowls as well as the trap had successfully passed every test imposed by the public authorities and their use had been approved.

So far as concerns the opposition of the Plumbers Union to the installation of and to handling devices of this character that have received public approval, your Committee calls attention to the fact that in the preceding list of Labor Unions abuses

which the Unions have agreed to reform, one of the specifications requires them to handle without objection or discrimination any device that has received the approval of the public authorities, so that so far as the Unions are concerned such approved traps and bowls will now be installed. Until the activities of the Soil Pipe Association have, however, been curtailed the continuance of opposition from that source may be expected.

This is another of the combinations upon which it is the intention of the Committee to take further testimony with a view to prosecution. The entire country is in the grip of this monopoly.

The Eastern Supply Association has a membership of over 500. The testimony of Mr. Hanley was suspended at an early stage upon his agreement that all of the above-recited Associations, except the credit organization that he has been conducting, would be forthwith disbanded and dissolved. Whether or not this has been done your Committee has not yet had the opportunity to investigate, but intends to do so.

In addition to the various Master Plumbers Associations, including the Hettrick Ring, which was a local affair, and the Hanley organizations which include manufacturers and jobbers, there has been and still is in existence in the City of New York a local Master Plumbers Association that was organized about thirty-eight years ago, known as the Fifty-Eighth Street Associations, containing about 425 members and including a majority of the Master Plumbers in the City of New York.

This Association was originally organized to assist the members in the collection of their claims. This Association, although not constituting an illegal combination, has among its rules a provision forbidding a member to take any plumbing contract or take any plumbing work in a building in which another member has done work until the former member has been paid, regardless of whether or not the property has meantime passed into the hands of an innocent purchaser.

Many Labor Unions have similar oppressive provisions that have not infrequently been used for the purpose of blackmailing innocent owners and builders. In one case, brought to the attention of the Committee, the Business Agent of one of the Unions refused to allow an owner who had bought a property, to begin the construction of a building, on the ground that work had been done on the foundation of that building six years previously for which he claimed that payment had not been made to the then alleged contractor. It was proven that there was no sign of a

foundation ever having been on the land, but the owner was nevertheless compelled to compromise this bogus claim before he could begin building.

In all the cases in which evidence of a similar character was presented, it appeared that the then owner had acquired the property in good faith, that there were no liens on the building and that he had no notice of any claim for labor or by a contractor, but he was nevertheless compelled either to pay or compromise these baseless claims. It was not an unusual occurrence for a corrupt Business Agent in combination with a dishonest contractor to force the payment of these "claims."

Such demands amount to nothing less than extortion and the regulations of the Unions that permit of their being made should be abrogated, as many of them have now been, and others are about to be.

As illustrating the increases in the prices of plumbing materials from the manufacturer to the jobber, largely resulting from the operations of the Hanley Associations, the following tabulation was taken from the testimony of Charles F. Bennett:

*Prices from Manufacturer to Jobber*

					<i>Increase</i>
Cast iron fittings.....	Jan. 1912	\$19 99	Jan. 1919	\$67 69	over 250%
Radiator valves .....	Jan. 1912	10 69	Jan. 1920	25 65	over 150%
Brass goods .....	Jan. 1912	18 00	Jan. 1920	40 00	over 120%
Bath cocks .....	Jan. 1912	1 50	Jan. 1920	3 65	over 110%
Boilers .....	Jan. 1914	2 93	Jan. 1920	9 03	over 200%
Enamel ware .....	Jan. 1912	9 00	Jan. 1920	22 40	over 150%
Enamel ware sinks.....	Jan. 1915	5 85	Jan. 1920	10 94	over 90%
Sanitary fittings .....	Jan. 1915	3 47	Jan. 1920	6 50	over 90%
Porcelain .....	Jan. 1916	6 25	Jan. 1920	19 50	over 200%
Porcelain lavatory.....	Jan. 1916	6 25	Jan. 1920	18 25	over 190%

**(9) The Ainsworth Associations. (Seven Exchanges Connected With the Building Industry).**

It was ascertained that Albert A. Ainsworth, having his office in the City of New York, was conducting sixteen organizations in the way of combinations among competitors in various lines which were connected with the building trades or with materials used in connection therewith. On being called to the witness stand, following a conference between him and his Counsel and Counsel for the Committee, in which it was demanded that he dissolve these organizations, he stated: "My counsel is willing to advise these organizations to abandon these reporting systems. He and I are willing to advise the abandoning of the reporting of sales."



It appears that Ainsworth organized or was conducting the following so-called "Exchanges" connected with the building trades:

The Meter Manufacturers Exchange (to which reference will hereafter be more fully made in connection with the Badger Water Meter Company).

The Pipe Fittings and Valve Exchange, with a membership of twenty or more manufacturers.

The Steel Locker & Shelving Manufacturers Exchange.

The National Gas Appliance Manufacturers Exchange.

The Abrasive Paper and Cloth Manufacturers Exchange (which is a combination of all the manufacturers of sand-paper used in the polishing of woodwork in the United States).

The Range Boiler Exchange.

The Steel Sash Exchange (which manufactures the steel sash in buildings).

All of these exchanges are price-fixing organizations between manufacturers in the same line of business that should be competitors.

At a subsequent hearing Mr. Ainsworth was recalled for the purpose of satisfying the Committee that he had carried out his promises. He presented resolutions passed at meetings of the members of the various Exchanges showing that some of them had been dissolved and others had ceased their irregular practices, but the Committee is unable at this time to state whether these acts have been effectively concluded.

Your Committee is of the opinion that in view of the decision of the United States Supreme Court above referred to in the Hardwood Lumber Case, there is no excuse for any of these exchanges to continue in existence and it proposes to investigate their present status and ascertain whether they have been in good faith dissolved.

#### (10) Fire Proofing.

*Concrete Fireproofers Association.*— A method of fixing prices differing somewhat from those prevailing in other Associations is exemplified in the case of the Concrete Fire Proofers Association, which consisted of twelve members. Its jurisdiction covered the Greater New York. It usually and perhaps still holds its monthly meetings at a luncheon in the building of the Building Trades Employers Association. It operates under a Charter and By-laws. The organization was ostensibly maintained for the purpose of checking "mistakes" in estimates that had been made by its sup-

posedly competing members but in point of fact its object was to compare estimates before they were accepted by the owners and contractors to whom they were to be sent.

The members of the Association claimed that where a contract had actually been closed upon estimates made there was no illegality in submitting to all the members of the Association the detailed estimates upon which the successful bidder had based his price so that the collective opinion of the members of the Association might enable the successful member to exercise economy in the performance of the contract and thereby minimize the possibility of eventual loss, made by them both written and verbal. If this had been the sincere purpose of the Association and it had confined itself to that activity it would perhaps not be subject to criticism. For this alleged purpose members were required to record with the Association all original and final estimates.

Thereafter the Association organized as part of its machinery a central estimating body called the Central Estimating Bureau. It was a separately incorporated stock corporation and was organized in the year 1919 with a nominal capital stock of \$2,000 consisting of twenty shares which were distributed to the members in the proportion of the business done by them. All stockholders were members of the Concrete Fire Proofers Association.

At the time this organization was under investigation the Bureau had been in operation about seventeen and one-half months and had estimated upon over \$5,000,000 worth of business in the City of New York. Under the rules and regulations, a member contemplating bidding on a job was compelled to take the estimates made thereon by the Central Estimating Bureau to which was added at least ten per cent to cover overhead.

Inasmuch as this Bureau estimated for all the various competitors and there was a uniform addition of overhead charges, it is apparent that its purpose was to destroy competition and that it accomplished that purpose. The bids were unquestionably allotted between the members according to an agreed plan, although owing to the suspension of the testimony on that subject no proof of that fact has yet been adduced.

#### **(11) Furring and Lathing.**

*The Employing Metallic Furring, and Lathing Association of New York.*—This organization has been in existence for about seventeen years. There are twenty-one concerns in its membership. It is governed by a Constitution and By-laws. Like several

similar bodies this Association joined hands with one of the leaders of organized labor and Business Agents belonging to the Council to accomplish its purposes of monopoly and in the extermination of competing employers in the business who did not become members of the Association by refusing them the use of organized labor, without which it was impossible for the business to be conducted.

A former President of the Association openly avowed before the Committee that the object of the organization was to enforce better prices and that this was the purpose of the meetings. It operated in a manner similar to other Associations above described; viz.:

A more or less informal understanding concerning prices and strict adherence by all the members to this understanding and the elimination of competitors who were not members of the Association by the withdrawal from the latter of Union workers under the orders of the Union delegate who was also a member of the Association.

Your Committee's conclusions in this respect are strengthened by the fact that this Association deliberately destroyed its minutes and records shortly prior to the calling of the witnesses and after they had been subpoenaed, on account of which acts the members of the Association are now under indictment.

#### **(12) Heating and Piping Contracts Association.**

This Association is quite apart from the Hettrick organization known as the Steam Heating and Ventilating Association although it covers to some extent the same line of business. Its Secretary, Henry B. Gomers, is also the Secretary of the Heating and Piping Contractors Association, which is a State-wide Association, and of the Heating and Piping National Contractors Association which is a National Association with both of which this Local is affiliated and of which it is a member. The Local has been in existence since 1918. It has an agreement with the Enterprise Association of Steam-Fitters and Journeymen and the Progress Association of Steam Fitters Helpers, both of which are Labor Unions. The Local, State and National organizations cooperate in opposing undesirable legislation.

Under the agreements between the Labor Unions and this Association, the former are required to give preference in the supply-

ing of Union Labor to the members of the Association over non-members, the effect of which would be to drive every employer into the Association in order to secure labor.

The control of the Association over its membership is so despotic that the by-laws prohibit a member from advertising his business without permission from the Association. It fixes the rates that its members must charge to contractors and others for the supply of labor. On May 3, 1920, it fixed a rate of \$3 per hour or \$24 per day for a Steamfitter and Helper, although the rate that its members were paying under the agreements with the Unions was \$16 per day. It also co-operated with the Electrical Contractors and other Associations to defeat legislation believe to be inimical to its interests. On May 18, 1920, the members passed a resolution to the effect that if there was an increase in the prevailing rate of wages during the progress of work under an existing contract the members were required to change the contract, in violation of their contract obligations. So far as can be learned, this Association has not yet disbanded.

### **(13) Contractors Protective Association.**

This organization consisted of 47 members who were engaged in business as excavators, truckmen, house-wreckers and one of whose members was engaged in the business of buying and selling brick at second-hand. There were separate Committees on Excavation, Sand and Trucking. There is also a Membership Committee and a Trade Committee.

This was an open and defiant price-fixing combination. The minutes show that at the various meetings resolutions were passed by the members not only fixing the price of commodities but the minimum prices at which labor should be supplied, which were grossly in excess of the cost of labor.

The Association has agreements with various Trade Unions by the terms of which the members of the Association are permitted to charge exorbitant profits on labor. Any member who violates these provisions is subject to penalty. The Labor Unions agreed to supply labor only to members of the Association, which made it compulsory upon every member in this line of business to join the Association. By co-operation with the labor delegates of the various Unions the delegates would refuse to permit Union men to work

for any non-member of the Association engaged in a business similar to that of members of the Association, thereby giving to the Association a monopoly of business throughout New York City.

The extent of this monopoly is indicated by the experience of the Munson Line Steamship Company in its attempt to sell sand in the City of New York. This Company brought over 1200 tons of sand from Rotterdam as ballast. On its arrival the officers of the Steamship Company endeavored to dispose of the sand. No dealer could be found who dared purchase it. No truckman would haul it and no contractor would handle it. Finally the Company offered to give away the sand to any person who would take it but no such person could be found, although it was admittedly the best quality of sand and sand was then selling alongside at \$2.50 per ton and was difficult to secure. Finally, in spite of the recognized scarcity of this commodity in the market the ship owners were obliged to tow the sand out to sea and dump it there at a cost of about \$2 per ton to the Company.

#### **(14) Employing Plasterers Association.**

This is a Local organization covering New York City and is also a member of the Building Trades Employers Association. It was a party to the agreements with Labor Unions to which reference has been made whereby members of the Association received the preference over non-members in the supply of Union Labor, thus forcing employers into the Association.

The Association is also a member of a National Association of the same character under the provisions of whose Constitutions and Bylaws the Local Association is required to respect a zoning or districting arrangement adopted by the National Association by which the entire country is apportioned among the members of the National Association by locality.

Two of the most offensive regulations in this organization are:

(1) A provision contained in its Constitutions and By-laws prohibiting any member from sub-letting a contract except to another member of the Association.

(2) Further provisions that where work on a job is discontinued for any reason by a member holding a contract, no other member may complete the work.

**(15) Stone Masons Contractors Association.**

This organization had upwards of 50 members. It is a local organization whose pernicious activities as a deterrent to business were felt throughout the City and the suburbs.

Among its members is a delegate of the Stone Masons Union. Many employers were induced to join through his compulsion. It appears that whilst a stone mason operating in the City of New York outside this membership might commence work upon a job he was seldom able to finish it. In due course a Labor Union delegate would call upon the non-Association contractor who happened to have been sufficiently fortunate to secure a job and would inform him that Union laborers would go on strike unless he paid a large initiation fee and came into "the fold."

There were weekly meetings of the Association on Monday evening. There the prices on every character of mason work in the City of New York were openly and notoriously discussed and prices were fixed and entered upon the minutes. In 1916, for instance, the Association fixed 35c. per cubic foot as the price for some work which had previously been 25c. a cubic foot. Out of the increased price, two cents per cubic foot was required to be deposited by each member with the Treasurer of the organization. It does not appear what disposition was made of the large fund thus accumulated but it is established that generous sums out of this fund were paid, with the approval of the Association, to the aforesaid delegate of the Union who was a member of the Association and who was so effective in augmenting its membership.

This Association resorted to none of the subtleties and subterfuges that were adopted by the many organizations of more intelligent membership and larger affairs. It had no complex evasive system of book-keeping or price-fixing. It went about the job boldly, using the all-powerful influence of this corrupt Union labor leader to enforce its demands and thereby became a most effective instrument in suppressing competition and in boosting prices to a maximum.

It would be mere conjecture for your Committee to estimate the number of like Associations that have been and probably still are active throughout the City. Obviously in the field still unexplored by your Committee there are many similar Federations the accumulated effect of which on competition is so great that it would be dangerous to allow them to continue their oppressions and depredations upon the public.

**(16) Tile, Grate and Mantel Association; Associated Tile Manufacturers.**

There is a network of Local, State and National Associations that cover the entire country in these fields of activity. They extend from the manufacturer through the jobber to the retailer. There is first the National Association consisting of about 350 members having jurisdiction all over the United States and a part of Canada with territorial branches. The branch operating in the Eastern States is known as the Atlantic Coast Association and consists of 72 members. Connected with this branch are 6 Local Associations operating in and around New York City. Their titles are as follows:

The Tile, Grate and Mantel Association of New York City.  
The Bronx Mantle & Tile Contractors Association.  
The Brooklyn Tile and Mantel Contractors Association.  
The New Jersey Mantel and Tile Dealers Association.  
The Westchester County Tile Dealers Association.  
The Patterson Tile Dealers Association.

The Local Associations pay dues into the Atlantic Coast Association. The latter in turn pays to the National Association at the rate of \$25 per year for each member. The Atlantic Coast Association meets at the offices of the Employers Association.

Section 10 of the Constitution of the Atlantic Coast Association provides that all transactions of the Association shall be deemed strictly confidential and that betrayal to any one other than a member shall be deemed sufficient excuse for fine, suspension or expulsion.

The six metropolitan members of the Atlantic Coast Association are affiliated with the Employers Association.

The National Association had a contract that inured to the benefit of all its members and the members of the various locals with the Labor Unions doing business in this particular field and with Unions extending all over the country all of which were part of the membership of and under the direction and control of the International Bricklayers and Plasterers Association. By the terms of this agreement labor was supplied preferentially to the members of the National Association and its constituent Associations. The proof shows that in practical effect it was impossible for any employer not a member of the National or of one of its subsidiary Associations to secure the service of a tile-setter.

As evidenced by the activities of the Tile, Grate & Mantel Association which operates in New York, it appears that it adopted a schedule of minimum charges that members were required to make to builders or contractors and that the builders or contractors must buy their labor and material from the same source. In other words, the builder could not employ a tile setter directly from the Union. He had to get him through a contractor and in order so to obtain them he had to give to that contractor the furnishing of materials connected with the setting of the tile, grate or mantel. This same requirement has also been insisted upon through the agency of the same Bricklayers National Union with respect to contracts for laying bricks. There, too, until your Committee broke up the system, an owner or contractor was unable to let a contract for laying bricks without giving to that same contractor the furnishing of materials, thus interposing an additional burden on building besides encouraging improper work.

One of the particularly vicious features of the By-laws of the Tile, Grate & Mantel Association, which was constantly put into effect, was the provision that whenever a member becomes involved in a dispute over the work that he had contracted to perform, he was able to settle the dispute without further discussion by simply stopping work and requiring the Secretary of the Association to send to all members a "Stop Notice" on that particular job and thereafter no member was allowed to concern himself with that work. This practice of sending out "Stop notices" was employed not only in connection with jobs in which there was a dispute. It extended also to cases in which the member who had a contract for the job was himself unable to secure labor or material to proceed with the work or where he met with any other obstacle for which the owner or builder was in no way responsible. To prevent the owner from continuing with another contractor he would simply cut the "Gordian knot" by applying to the Association for "protection." The Secretary would thereupon send out "Stop notices" that effectively held up the work.

It was admitted that the object of the 'Stop Notice' was to protect the member quite as often when he was in the wrong and in default as otherwise and to keep the job in his hands and exclude the rest of the membership from displacing him. No matter what may have been his offense or breach of contract, the game invariably worked to a charm.



The Associated Tile Manufacturers consists of ten members. They maintained and probably still maintain a central office in charge of a "Commissioner." Your Committee has not yet reached this part of the investigation further than to ascertain that to this Commissioner each member makes a daily report of all sales prices and the names of the purchasers,—manifestly for the purpose of maintaining and fixing prices. As an adjunct to this Association there is a Tile Manufacturers Representatives Club consisting at one time of 12 members and at other times of as many as 18 members who are salesmen for the Manufacturers, the purpose of which is manifest when taken in connection with the other facts above recited.

#### (17) **Mosaic Employers Association.**

Many of the members of the Tile Grate & Mantel Association and of the Tile Manufacturers Association are also contractors for and manufacturers of mosaic as are members of the Marble Industry Employers Association and some of them are members of all the Associations. The local Unions that supply them with labor are members of the same International Union. They are supplied by the same class of labor under the same general forms of contract and the Associations are in a broad sense interlocking and supplementary to one another.

Section 1 of Article 12 of the Constitution of the Mosaic Employers Association has provisions similar to that of the Tile Association to the effect that where a member has not received the full amount due him for the work and the Association has been notified of the fact no other member of the Association is permitted to perform any work on the job except upon the written consent of the member who held the original contract. It is not necessary for a member to file a lien against the building or that he should have a lawful claim. His mere contention that the owner or contractor owes him money, if he chooses to exert it through the Association compels the owner or contractor to comply with his demands whether found or unfounded. Until they are complied with the work simply stops.

This Association openly adopted by resolution a system of comparing contemplated bids and for the interchange of bids between members. Mr. Ellis B. McLaury, President of the Association, testifying on May 12, 1921, said in substance:

"If a member does not like the way an owner or contractor is

paying and stops, I sent out a stop notice and no other member of the Association can work on that job."

He testified that they stayed off by way of "courtesy" but in point of fact they were excluded from the job by the terms of the By-laws. In that way the member would be able to charge anything he pleased for additional work. If the owner did not like his charges, the work would remain undone. In this as in other of these Associations that are sheltered under the roof of the Employers Associations. An owner or contractor who requires the work to be changed or additional work done is at the absolute mercy of the members of these Associations.

This applies to practically all the Associations that are affiliated with the Employers Association with a few exceptions, such as the Master Builders Association who, as before stated, are members of the Association only for the protection they get in the negotiation of contracts with Union Labor.

The entire membership of many of the various Associations above described and of their officers, have through the agency of this Committee, been indicted on account of the unlawful practices above recited, many have been tried and convicted, still more of them have pleaded guilty and many that have been indicted still remain to be tried and indictments of others are yet to be asked, all of which will be hereafter more fully set forth.

#### (18) Terra Cotta Association.

*Eastern Terra Cotta Association.*—This is a branch of the National Terra Cotta Society. It operates in the Eastern District of the United States. The National was organized in 1912 and consists of about 30 members. It has a countrywide jurisdiction and controls the entire terra cotta business in the United States.

For the purpose of its operations it has divided the country into three districts—the Pacific Division, the Central Division and the Eastern Division embracing New York City and its environs. The Eastern Division is dominated by the Eastern Terra Cotta Association with a membership of 9 manufacturers.

Its operations as disclosed by its Constitution, By-laws and the minutes of its meetings manifestly constituted a criminal conspiracy. The members were required to file cards that would advise each member of every estimate made to any contractor or builder. Its price-fixing machinery purported to be a develop-

ment of the "Open Competition" or "Eddy" Plan. It is now said to have disbanded as the result of the indictment and conviction of its members and of the Association in the United States District Court of New York. Whether or not it has in fact done so or is operating in another form will be developed by the further investigations of the committee.

### (19) Roofing.

(A) *Composition Roofers and Water Proofers Employers Association.*— There are 17 members in this group. This Association is also a member of the Employers Association. It has the usual preferential agreement with the Labor Union that operates in its field. Its By-laws and Practices show the same arbitrary methods of stifling competition and destroying competitors, regardless of the public interest, that characterize many of the above-described Associations.

The H. W. Johns-Manville Company which is not a member of the Association was accustomed to furnish a 10-year guarantee of its roofing work whereas the rules of the Association forbid the members from giving a guarantee of more than two years. The H. W. Johns-Manville Company was excluded from membership in the Association and every attempt was made to destroy its business because it refused to limit its guarantee to the owner, builder or contractor to two years.

(B) *Employers Association of Roofers & Sheet Metal Workers.*

(C) *Roofers and Sheet Metal Business Men's Club.*

The Association employed the usual "card system" between members as to jobs estimated upon and contracted for. It also had the usual requirement in its Constitution and By-laws preventing any member from finishing a job that was commenced by another member and discontinued for any reason or from doing extra or additional work on the job, thus giving to a member who started upon a contract a monopoly of that class of work in the building regardless of whether he performed or violated his agreement and regardless of what he might choose to charge for additional work or how little he might care to credit for omitted work.

Herman Weinberger, the Secretary of both Associations testified that the Club has thirty-two members and that the Association has more members than the club. There are seventy-eight members in the Association, which is also a member of the Employers

Association. Before an estimate is given, the members get together and compare "costs." The Club gets two per cent on all business done by the members. Weinberger said that it was his idea that the members had the right when they were asked to estimate on a job to get together and agree on what they call the "cost price" of the job.

"According to our Constitution, if a man wants to figure on a job in New York City, he has got to do it with his competitors."

It seems that at a meeting in January, 1921, after this Committee's investigations had been widely published, the Association abandoned section 7 of its by-laws which prevented a member who got into a controversy with the owner or contractor from dealing with any other member.

The Architectural Metal Works was tried and convicted for violating section 10 of the Constitution in that it had put in an estimate at less than the figure agreed upon between the members. Subsequently that fine was remitted. On one or two occasions in which a member reported outside competition on the job, the 2 per cent payment to the Club was remitted so as to enable him to meet that competition. It was the custom to notify the members to communicate with one another before they estimated on a job — "when there was trouble," — which means that when there was danger of outside competition.

The agreement between the Association and the Amalgamated Sheet Metal Workers Alliance, Local Union No. 28, that supplied its labor was made in December, 1917. It gave the members of the Association a so-called "preferential" in the supply of Union labor over those who were not members, which meant that in times of activity non-members could get no labor. Mr. Weinberger testified that "a new argument was made necessary on account of the exposures of the Committee."

The Committee of the Association having in charge the question of prices recommended "standard rate of charge of 50 per cent upon each item of cost and 10 per cent upon insurance." Mr. Weinberger further testified that a member who charged less than 50 per cent profit on the job violated the by-laws but that he did not understand that to be price-fixing. There was also a resolution recommending that "45 per cent be added to the cost of each item of metal or labor on work other than that done under contract." In 1919 they lifted that to 50 per cent although the cost of the material and labor they were handling had more than doubled.

This Association had regular price-lists distributed among its members and its resolutions provided that even though they be under contract for a job, if the cost of labor was increased during the performance of the contract the additional cost was to be added, but there was to be no deduction if there was a decline in labor costs. Since the Association was organized there had been a uniform form of two-year guarantee on roofs that had been installed. Before the organization of the Association every man made his own guarantee. There were different kinds of roof but the guarantee was inflexible.

This is another illegal conspiracy that the Committee has not yet had the opportunity to present for prosecution.

#### (20) Bronze and Iron.

*Ornamental Bronze and Iron Association.*— This organization operates in conjunction with a similar National Association. The Local Association consists of ten members; the National Association has a membership of fifteen. It has a Constitution, By-laws and a Code of Practice, containing the various prohibitions noted in connection with other Associations, that where a member sublets part of his contract he must sublet it to another member of the Association, and that wherever any member quits work on a contract no other member can complete the contract.

The Association is likewise obligated to pay a fixed scale of wages to workingmen by agreement with the Trade Unions employed by its members, and is likewise bound to exact an exorbitant profit on labor to be charged to customers.

It is likewise a member of the Employers Association. Its organization and practices are characterized by many of the obnoxious features obtaining in the Associations above described.

#### (21) Architectural Iron Workers.

This organization is likewise a member of the Employers Association and has a similar preferential contract with Labor Unions. Frank J. Steckenreiter, one of its members, testified in substance as follows:

“ If one of our members makes a claim that somebody owes him money on a building, even though the claim is contested and the ownership in good faith changed, if any other member does work on the building the new owner must pay that claim before any other member will work on that building.”

Section 1 of Article 5 of the Constitution requires that when a member sub-lets any part of his work or contract he must do so to another member. The members of this Association have likewise a fixed scale of prices which they are required to charge customers for labor, which includes an exorbitant profit. As illustrating its profiteering in labor, the members pay a man and helper \$16 per day and charge the customer \$36 per day for that same journeyman and helper.

### (22) Metal Doors and Windows.

*Association of Manufacturers of Metal Covered Doors and Windows.*—This Association is also a member of the Employers Association. It has a membership of fifteen manufacturing concerns. The volume of business done by the members is about 60 per cent of the entire business of the Metropolitan district. This coterie has had recourse to the usual preferential agreements with Labor Unions to stifle competition and exclude competitors and has other objectionable features similar to those before described but which it is believed unnecessary again to set forth in wearisome detail.

The investigation of this organization is still uncompleted.

### (23) Metal Ceilings.

*Metal Ceiling Association of New York.*—This Association is also a member of the Employers Association. It consists of 28 members. It is bound to the Labor Union by preferential agreements for labor that handicap competition and is of the same general character of those above described.

The Committee is in the early stages of this investigation.

### (24) Parquet Flooring.

*Parquet Flooring Association.*—This Association is also a member of the Employers Association. It has 50 members in the Metropolitan District of whom three or four are manufacturers. Most of its members are jobbers and contractors. It also has an agreement with the Labor Union for the preferential supply of labor. It is plainly a price-fixing combination. Minutes of its meetings show that prices are discussed and agreements reached fixing prices. Schedules of prices were issued and distributed among the members.

The Metropolitan District is divided into two sections and the business in each respective section is allotted to the member

residing therein. Private owners and builders are discriminated against in favor of dealers in the prices charged by the members. The contract price to the owner or builder was found to be in many cases 50 per cent. greater than the contract price to the dealer for the same work.

The testimony discloses that this branch of the industry is in the control of a central body or Manufacturers Association that regulates the prices of supply. The market price of parquet flooring material is uniform. It rises and falls simultaneously throughout the country. The increase in price in this commodity has been fabulous and extortionate. In 1913 the price of parquet flooring was 8 cents per square foot. It has gradually risen until in 1920 it had reached the figure of 52 cents, an increase of over 550 percent.

Objectionable features disclosed in connection with other Associations affiliated with the Employers Association appear here.

#### (25) Hardware.

*Builders Hardware Manufacturers Service Bureau*—This Association was organized March 9, 1916. It consists of 13 of the most important concerns in the country and extends its influence over the entire nation. The Yale-Towne Company is the largest of its members, doing an annual business of over \$7,000,000. The members deal in builders hardware which includes locks, door-knobs and like material. The size of the interests represented in this Association is indicated by the business done in the year 1920, which amounted to \$21,483,284.55.

Although this is not conceded to be a combination in restraint of trade, it is so in fact. It is plainly an "Open Competition" Bureau within the meaning of the Hardwood Lumber Case. Its regulations prescribe that the members shall send to the Secretary daily sales reports. At monthly intervals the Secretary issues to each member a compilation based upon the total sales reported and showing the aggregate prices. The members are required to report immediately every increase that they make in the price of any article. From time to time the Association adopted resolutions requiring each member to send to the Secretary a statement of the outstanding net prices for the various items of merchandise manufactured by the respective members as of a certain date and their rates of discount. On the receipt of such statement, the Secretary forwarded to other members copies thereof.

By means of this recording system and of inquiries whereby the members consult with the Secretary at will concerning discrepancies in prices which appeared in the trade, the prices of the commodities manufactured by the members are maintained at a fairly uniform standard.

The increases in prices in certain of the articles manufactured, of which there are a vast number of items, may be gathered from the following illustrations taken from the "Iron Age" of April 7, 1921:

Pipe, 1914.....	\$4.85	1920..	\$11.50	Increase over	130%
Copper Tacks, 1914..	.17	1920..	.36	Increase over	110%
Sash Weights, 1914..	18.00	1920..	61.50	Increase over	230%
Hinges per Cwt., 1914	2.15	1921..	6.00	Increase over	180%
Lead per Cwt., 1914.	3.35	1920..	9.50	Increase over	180%
Nails, 1914 .....	1.55	1920..	4.50	Increase over	190%

The Committee has not yet been able to ascertain whether this Association continues its oppressive exactions but hopes to do so in the near future.

### (26) Glass.

*National Manufacturers Association.*

*National Distributors Association.*

The prices of glass used in building are well over 400% above what they were at the beginning of the war. At the end of the war the price had been advanced at least 150%. Since then it has been advanced at least another 250%. The manufacturers have an Association of their own known as the National Association of Window Glass Manufacturers of which J. R. Johnson of the Johnson Brokerage Company is the Secretary-Treasurer. The entire product of the factories is marketed through his Brokerage Company to the distributors. The manufacturers limit the output by the simple process of apportioning to each factory the amount of glass it is allowed to make. If that limit is reached in 15 weeks of the year, the factory ceases operations for the year. Twenty-five weeks per year is the average period of operations. In a circular letter issued by him as Secretary-Treasurer on July 8, 1918, he states that the membership of the Distributors Company comprises practically 100% of the country's flat glass distributors and manufacturers.

The reason given for this brief period of operation is that glass-blowing requires great heat, being injurious to the health of the



workingmen and otherwise making it inadvisable to operate the factories during the summer season, but inasmuch as these factories are located in various sections of the country, both East and West, in none of which there are seven months of summer, the pretext is manifestly frivolous.

The entire output is under the control of a large central organization known as the National Distributors Association of which there are two main divisions — the Eastern and Western Associations. There are other Associations throughout the country affiliated with the main organization. Probably the largest manufacturer in the country is the American Window Glass Company which is a member of the National Distributors Association and has acted as the pace-maker in the fixing of prices for the trade.

At stated periods this Company issues a price-list to which the manufacturers and distributors throughout the country immediately adjust their prices which are thus kept uniform and the profits of the manufacturers are in that way maintained at a high figure.

There is an official uniform price-list issued by the National Distributors Association which applies to the whole jobbing trade. This is made up by a Committee of the Association and is in use in all parts of the United States.

The members of these Associations composed of a hundred or more are under indictment in the Federal Court. The date for their trial had been fixed but the indictment has been dismissed on a technicality which can readily be corrected by a superseding indictment.

#### **(27) Electrical Supplies.**

*Electrical Contractors' Association.*— This is a branch of a similar National Association consisting of about 2,500 members spread over the entire country. In the New York City Local Association there are 42 members. There are five similar organizations in the City of New York belonging to the Central National body that work on the same basis as this organization.

This Association has likewise a contract with the Labor Unions for the preferential supply of labor to its members. It also by resolution adopted fixed rates which the members are required to charge to customers for supplying labor on all jobs and which provides for exorbitant profits on labor.

The National Association publishes a so-called "Canon of Ethics" under which the subordinate organizations operate and which contains unlawful regulations intending to restrict competition and to bring the National Association within the condemnation of the law.

An affiliated Association is the Institute of Electrical Contractors which has adopted the so-called "Eddy" or "Open Competition" System.

### (28) Paints.

*Master Painters' Association.*— This is a local organization confined in its membership to employers in this line of business in the City of New York. It consists of 32 members. As part of its scheme for coercing employers into the Association and for monopolizing labor it also has a wage agreement with the Council. The Association on its part has adopted a schedule of prices to be charged customers for labor to which the members are required to adhere and which permits of extortionate profits in the supply of labor. It joined hands with the Employers Association and the Council to concentrate the control of labor in the hands of the Brindell organization after the following fashion:

Among the locals affiliated with the American Federation of Labor was a Painters Union in New York known as "No. 9," consisting of about 13,000 members. Brindell, for the purpose apparently of more readily consummating his blackmailing schemes, made war upon this Union. He organized a new Union of Painters called "Local No. 1," and attempted to oust from employment the members of No. 9 and to deliver all painters' work to this new Union of his creation.

The Master Painters Association and the Brindell Council in combination with the Employers Association was achieving high success in this purpose when the revelations of your Committee put an end to this discrimination.

The officials of W. T. Nelson & Co., a large firm engaged in this line of business, testified that as a result of their refusal to comply with the agreements with the Labor Union with respect to the charges to be made by the employers for labor, they were expelled from the Master Painters Association and were thereafter unable to secure labor or contracts within the City of New York. Where they had formerly done a business of from \$400,000 to \$500,000 in the city, their business dropped to about \$90,000.

The same general characteristics that have been described with respect to other Associations who were members of the Employers Association were found to exist in this Association.

(29) **Lead.**

*American Institute of Lead Manufacturers.*— This organization was formed in 1918. Its members do at least 90 per cent of the entire white lead business of the country. The National Lead Company which is by far the largest of the members alone did a business for the 11 months of 1920 of nearly \$22,000,000.

The control of white lead involves the control of all paints used in the building industry as white lead is the principal ingredient. The above-named "Institute" operates under By-laws that require the filing of reports of all quotations by the members. The quotations of each member are immediately transmitted to the Secretary of the Institute who promptly advises all the members of such quotation. In this way absolute uniformity of prices has been maintained throughout the country. In order that each member shall exercise a more effective check on the others, inquiry blanks are provided by the Institute by the use of which members may secure such information as they desire concerning the transactions of any other member.

The machinery provided by the reporting plan was graphically described by the Secretary of the Association in language of which the following is a summary:

"I was a clearing-house through which one member of the Institute knew what the other members were doing. He could keep in touch through me with all the operations and sales and prices and terms of the other members. If one member of the Institute quoted prices to a proposed customer, another member could through me find out exactly the terms at which that offer had been made and after a sale has been made he could find out the same thing. If there was any variation in the price it was the duty of the member of the Institute who varied the price to notify me."

As a result of this system, the entire country has been and probably is still in the grip of this combination. Inasmuch as white lead, and paint, of which it is made, constitute important items in the cost of building, it is the intention of your Committee to pursue this subject further and we are now engaged in gather-

ing proofs on which to demand the disbanding and prosecution of this combination.

### (30) Shoring.

*House Movers and Shorers' Association.*—This Association has thirteen members and is another of the constituent members of the Employers' Association. The primary purpose of its formation was to monopolize for its members the entire business in New York City by preventing non-members from securing Union labor. It subscribed to and received all the advantages of the agreement between the Employers' Association and the Council which was of the character heretofore described with respect to other like Associations that are affiliated with the Employers' Association.

### (31) Hoisting.

*The Hoisting Association.*—This Association consisted of eight concerns who control 95 per cent. of the business in and about the City of New York. It is duly incorporated and has a Constitution and By-laws which contain provisions that are on their face unlawful and its practices are shown to be monopolistic. It also is a member of the Employers' Association.

It appears from the minutes of its proceedings that its prices are standardized and made uniform between the members by resolutions adopted at their meetings. The Secretary, however, testified on December 28, 1920, that the Association had abandoned its pernicious activities as the result of the investigation but your Committee has not yet been able to investigate so as to determine whether this is the fact. The determination of that question by further investigation is a part of the mass of unfinished business of your Committee.

### (32) Automatic Sprinklers.

*New York Automatic Sprinkler Association.*—The investigation of this Association is still unfinished. So far as it has progressed, the facts developed are briefly as follows:

In the latter part of 1919 there came into existence the above-named organization under the title of "The New York Automatic Sprinkler Association." When the investigation of its affairs was begun on December 9, 1920 it had nine members who had the great bulk of the business in New York City and vicinity and a large proportion of the business throughout the country.

The Constitution and Bylaws prescribed standardized contracts and estimate forms for use by its members. These were in effect merely another name for the "Card" used by other price-fixing combinations. The machinery employed in this case was about as follows:

Members intending to bid upon a job would first secure from a Central Bureau conducted by the Association a so-called "Survey" from which the member could gather the equipment and details of installation necessary for that particular job. On this Survey the prospective bidder would make his estimates using the standardized estimate form of the Association. He would then file this estimate showing his bid in the office of the Association where it would be opened for the inspection of the members who were intending to bid upon the same job. The information thus received from such inspection was further supplemented by the views of the various members given at weekly meetings of the Association.

This routine amounted to nothing more or less than a plan to fix prices on each individual job. In order to guide the members with greater certainty in fixing a uniform price, they were compelled to follow a price-list of the equipment formulated and furnished by the manufacturers to the members.

The Committee is also intending in this connection to investigate an alleged combination between the manufacturers of the pipe and other materials that are assembled by these sprinkler contractors.

### (33) Water Meters.

*The Badger Water Meter.* — There are ten manufacturers of water meters in the United States. Eight of these are or were at the time of our investigation members of the Water Meter Exchange, being one of the Associations above described operated by Albert A. Ainsworth.

The types of meter manufactured by the members of this Exchange, are the only types authorized to be used by the Board of Alderman of the City of New York. The Badger Water Meter, which is not manufactured by a member of the Exchange, is used in other cities throughout the United States and has passed the required tests and received the authority from the Commissioner of Water Supply, Gas and Electricity of the City of New York for use in that City.

The Badger Water Meter is manufactured by the Badger Water Meter Company of Milwaukee. The meters manufactured by

the members of the Exchange are sold at an absolutely uniform price whilst the price of the Badger Meter is nearly 50 per cent less than that of the other meters.

The Badger Company claims that it has not been able to secure the approval of the Board of Aldermen as required by the Charter.

The Company procured the passage of a bill by the Legislature vesting the sole jurisdiction of approving water meters in the Chief Engineer of the Department of Water Supply, Gas and Electricity without action of the Board of Aldermen. This bill was not accepted by the Mayor.

Considerable testimony was taken before your Committee for the purpose of ascertaining what, if any, reason existed for refusing this Company the right to compete in the City of New York against this monopoly.

It was not claimed or suggested that the Badger Meter had not successfully passed the necessary tests and it was proven that it had been many months under the most severe tests before the approval was given.

#### (34) Miscellaneous Associations.

*Bolt, Nut and Rivet Society; Cold Rolled Strip Steel Association; The Manufacturers of Hoop Band Strip Steel; The Society of Bar Iron; The Makers of Wire Fence; Eastern Bar Iron Society; The Hollow Metal Door Society; The Rolling Steel Door Society; The Electric Institute; The Electrical Equipment Association.*—All these were so-called "Open Price" Associations that were organized by and were under the guidance of Mr. Eddy during his lifetime. Upon the death of Mr. Eddy, Mr. William J. Matthews who had been his associate or assistant, and who is a member of the Chicago Bar, succeeded to the management of these Associations, all of which were in existence at the time Mr. Matthews testified before the Committee on December 29, 1920.

The direct effect on prices and competition of the operations of all of them extend to the City of New York and to the building industry in that City and the other cities of the State. There are 34 manufacturers in the Bolt, Nut & Rivet Society located in all parts of the country.

There are 14 members in the Cold Rolled Strip Steel Association.

There are 12 manufacturers in the Hoop Band Strip Steel group, located chiefly in Pennsylvania and Ohio. The headquarters of that organization are in Pittsburg, but their product is marketed throughout the United States, including the State of New York.

The Society of Bar Iron has its headquarters at Chicago. There are 10 manufacturers in that Association. They are located in the Middle Western States, Indiana, Alabama, Kentucky, Missouri, Illinois and Wisconsin. It does not include the Republic Steel & Iron Company which makes bar iron and is not a member of the Society.

The Makers of Wire Fence Organization has 17 members, whose factories are chiefly in the Middle Western States. The Secretary of this organization occupies the office of Secretary in a number of the others. He has his office in Pittsburg. This organization includes all the leading manufacturers of wire fence in the United States and the operations of the combination directly affect the prices of wire fence throughout the State of New York.

The Hollow Metal Door Society and the Rolling Steel Door Society have their headquarters in the City of New York as has also the Electric Institute.

Mr. Matthews' testimony is frank and illuminating. He claims that all of these Associations are conducted as before stated on the "Open Competition Plan." All of them come within the condemnation of the United States Supreme Court in the Hardwood Lumber Case.

He describes the procedure as follows:

"Blanks are prepared to fit the industry, one for reporting inquiries on (white paper), a second for reporting bids (on say, yellow paper), a third for reporting contracts closed (on, say, blue paper) and blanks of the same are furnished to members. In general the forms have been varied to fit the peculiar conditions in the industry. That correctly describes it as far as that goes. I think so, yes. One for reporting inquiries, one blank for reporting bids, and one blank for reporting contracts. Sounds a good deal like the Hettrick System, but it has no analogy to it."

What the witness means is that if a person wants to buy from a member or members of the Association, he sends in for the price.

"Q. And that price before it is given is reported to the Association as being an inquiry, that is, the name of the man, so that every member of the Association shall know that that man is in the market for a certain thing—isn't that it? A. I presume so."

The next step after these bids have been exchanged is the making of a contract by the customer with the member selected from among the bidding members.

"Q. But before a contract is made, any member who has bid and who sees the other members' bids, after seeing them can he put in a corrected bid? A. He can revise it in any way he wishes to."

"Q. The Plan provides after each member has learned of every other members' bid, then he is at liberty to change his bid before a contract is made and notify the Secretary of the changed bid? A. That is right."

"If after each man sees each other bid and that results in some people lifting their bid, I would say he had a perfect lawful right to do that. It might be construed as a partial elimination on competition but not to such an extent as would contravene the law."

"Q. You don't believe in the policy of unrestricted competition such as the law now enforces? A. The law does not enforce it."

"I do not agree with Mr. Eddy that any line of industry should be permitted to monopolize its particular field."

"Q. Has there been a great spread of these cooperative Associations in the last five or ten years? A. I think more particularly according to my observation in the last three or four years as a result of the war. There seems to be a tendency towards teamwork of corporations."

These views thus ably and frankly stated gives some conception of the havoc that has been wrought by the so-called "Eddy" or "Open Competition" systems or Associations. Their purpose has been to destroy competition and they have accomplished it.

Your Committee deems it impracticable to attempt here to further develop in detail the character and extent of all the various price-fixing combinations that were investigated; nor does your Committee wish it to be understood that the entire field of the Open Price Associations in or allied with the building industry has been explored. That has not been possible.



**(35) The Iron League.**

The struggle of the United States Steel Company, the Bethlehem Steel Company and other manufacturers of steel throughout the United States to enforce the recognition of the so-called "Open Shop" principle not only in their own plants but in every building job in which structural steel is used, has led to many pernicious results. The proof put before your Committee establishes that the so-called "Open Shop" as enforced by the Steel Companies in all their ramifications is neither more nor less than a non-Union shop.

The Union men claim that all the foremen of the steel plants are required to be non-Union men. The foremen have an Association of their own into which Union men say they are not admitted and that no Union man is eligible as foreman in any of the great steel works of the United States steel or in any of their affiliated industries. A vast spying system is maintained both in the Steel Companies and in the Unions, as a result of which men who are found to be active in the Unions are discovered and deprived of work. Some of these men were witnesses before the Committee. The methods by which they were detected and discharged were disclosed by their testimony.

It was in effect a black-listing system. Whether it still exists your Committee is unable to determine but intends to make further inquiry.

As before stated, it was largely because of the power of the men in the steel industry to enforce this so-called "Open Shop" policy in the erection of structural steel in the City of New York that Brindell was able to blackmail many builders in the City of New York. When the pretext of calling a strike upon a building that the house-wreckers of his "wreckers" union were not employed, failed him, he invariably resorted to the excuse that the builder was employing non-Union men in the steel erection.

In 1919 the Labor Unions made an effort to organize the great steel fabricators of the country on a Union basis but they failed. In furtherance of the struggle of the fabricators to maintain the open shop, they insisted that all steel be erected upon a non-Union basis. Officials of these corporations openly claimed on the witness stand that this interference with Union labor in New York City was a necessary move on their part to prevent Union conditions in their shops.

To carry this policy into effect, the iron and steel industry is held in a country-wide network of organizations. Manufacturers, erectors, fabricators and employers are interlocked in this network of organization.

Among the important members of this group are:

- The National Erectors Association
- The National Steel Fabricators' Association
- The Bridge Builders and Structural Society
- The Structural Steel Society
- The American Erectors Association

The above are all National Associations.

In and about New York City and organized on a similar basis and for a like purpose there is the Iron League of New York.

Manufacturers and dealers associated in these organizations refused to deliver steel f. o. b. to any owner or builder who was under obligation to employ Union Labor or who independently of any such obligation operated on a Union basis. He could not get his structural steel f. o. b. He was obliged to contract for it erected in place which meant that it must be erected by what these gentlemen describe as "Open Shop" labor but which is in effect non-Union labor.

The President of the Bethlehem Steel Company frankly admitted that the combinations referred to have been effective in maintaining the open shop principle in connection with the erection of structural steel by refusing to sell steel to builders unless they unhesitatingly subscribed to that principle.

It appears from the testimony of Eugene G. Grace, President of the Bethlehem Steel Company, on pages 3625-3630 of the testimony that at a meeting of the Steel Fabricators Association held on November 28, 1919, a resolution was passed putting into operation the policy of selling fabricating material for erection only on the Open Shop Principle.

"Our Company refused to sell fabricated steel to any builder or contractor in the New York District who will not erect it on what we call the open shop principle."

"I do not know of any builder who can get any fabricated steel for construction in the City of New York without subscribing to that resolution. I do not know of any place where he can get it."

"The policy of selling to open shop erectors has been the policy since September, 1919, when the American Federation of Labor attempted to organize our plants."

"Q. You deny your employees, don't you, the right of acting jointly with the employees of other concerns in dealing with you and your association?"

"A. We would not recognize it."

"If 95 per cent of my men belonged to a Union I would not recognize them as union men or as members of the Union. I think that is better for the men."

The organizations above mentioned combine within their membership almost all the manufacturers, dealers and erectors throughout the country and although the open shop policy was applied at the time of our inquiry only in the vicinity of New York, Philadelphia and some other parts of the East, it was admitted that it was intended to extend the principle throughout the country. The various Associations have adopted resolutions directing their members to "adjust their business" so that the Open Shop Principle shall be maintained on all erection jobs.

Manifestly this is an indirect way of excluding from the privilege of purchasing structural steel any builder who does not subscribe to the Open Shop Principle. Expert evidence on this subject shows the extent to which the maintenance of this policy is reflected in the cost of construction. Officers of the Fuller Construction Company and the Thompson-Starrett Company testified that by doing their steel erection work themselves by skilled Union Labor which is more efficient than non-Union labor they could save large sums in the cost of construction.

Because of their inability to buy steel f. o. b. these important operators have been compelled to keep their expensive erecting equipment idle and to sub-let the steel erection to a member of the Iron League to whom alone the fabricators would sell the steel for erection in the City of New York and through whom alone they will permit it to be erected.

Since the exposures of your Committee, we are informed (although we have not yet had the opportunity to take proof on this subject) that the policy has been so far changed that the steel manufacturers will estimate for the furnishing of structural steel either f. o. b or erected in place at the option of the builder, but this new order it is claimed amounts in practical effect to the same prohibition as theretofore existed.

**(36) Gas and Electric Fixtures and Bulbs.**

The General Electric Company has almost a complete monopoly of the business of manufacturing, selling and distributing to the consumer all the electric lamps that are used in the United States and it also does a substantial export business. It apparently acquired and holds that monopoly by evasions of the judgment of the United States Circuit Court which was entered upon its plea of guilty to the grave charges solemnly preferred against it by the United States Government in 1911.

After making extravagant charges against its manufacturing costs for the purpose of reducing the apparent profits, the prices at which its lamps are sold still appear to allow an admitted margin of from 150 per cent to 300 per cent between the manufacturing cost and the price paid by the consumers. About 70 per cent of this profit is absorbed by methods in the distribution of lamps to which the company insists on clinging in order to throttle competition between the jobbers and retailers to whom it sells these lamps under the pretext of consignment contracts accompanied by limitations on the resale prices, which it fixes we believe in violation of the terms of the decree to which reference has been made.

In the year 1920 the public paid for these lamps considerably over \$120,000,000. Approximately 17 per cent of them were supplied by the Westinghouse Company which is acting in concert with the General Electric Company and under a license from the latter. An additional 7 per cent of the output was supplied by manufacturers operating under like license.

The facts and figures are disclosed by the testimony herewith submitted. They are complicated and it would encroach too largely upon the time of the Legislature to enter into a complete analysis of them at this place. Little more can be done here than to call attention to the outstanding figures:

The exorbitant profits have been "camouflaged" by excessive charges against New Plant Construction Account from which the following appears:

On January 31, 1893, the book value of the manufacturing plants was.....	\$3,958,528 21
During the 27 years ended December 31, 1919, additional expenditures were made on account of New Plants aggregating.....	147,012,087 28

There was expended on New Plants during	
1920 . . . . .	31,300,496 10
Total . . . . .	<u>\$182,271,111 59</u>

Written off or carried to "General Plant Reserve" during the 28 years.....	<u>\$115,734,429 06</u>
--	-------------------------

In 1908 the total factory floor space was 7,000,000 square feet. In 1920 it was 24,501,000 square feet which will give some idea of the extent of the New Construction.

In the year 1918 there was expended on	
New Plants . . . . .	\$21,593,996 90

In the year 1919 there was expended on	
New Plants . . . . .	14,462,285 77

In the year 1920 there was expended on	
New Plants . . . . .	<u>31,300,496 10</u>

Making a total of New Construction for those three years of . . . . .	<u>\$67,356,778 77</u>
---	------------------------

The Plant Values have been so depreciated that the net Book Value of this entire property account of \$182,000,000 as of December 31, 1920, appears at \$66,536,682.53 which it will be observed is less than the money actually expended in New Plant Construction during the past three years. We believe this has been done for the purpose of hiding profits.

It further appears that over the entire period of the Company's history the charges against Plant Account have averaged year by year upwards of 60 per cent per annum of the expenditures for new construction.

In addition to all this reductions and reserves have been made for bad debts and inventories.

Taking the year 1920 as illustrative, the Company's own books show after all this accounting a percentage of profits to sales in its lamp business (which is less than  $\frac{1}{4}$  of its entire business) of about fifteen times the percentage of profits on its entire remaining business. This appears from the statement of Messrs. Price, Waterhouse & Co., which was that after deducting Federal and other taxes, the Company's percentage of profits on net sales of lamps for that year was 30.79 per cent without taking into account as part of its profits about 70 per cent which it distributes to its so-called consignees or sales agents, ostensibly as commissions for selling the lamps but largely because

these agents sell other lines of unprotected merchandise on which the Company earns only a fraction of the profits that it is exacting on electric lamps.

The history of the various devices by which this monopoly has been acquired and is held, is recited by the Government in its Bill of Complaint. It will be difficult to find in the archives of the courts a more scathing arraignment than that to which this corporation pleaded guilty in 1911.

The Company was then said to control 60 per cent of the business of the country and the purpose of the judgment was to destroy that control. The Company despite the terms of the decree which was entered upon its consent now controls at least 96 per cent of the business of the country and is at the present time seeking to eliminate the remaining possible 4 per cent.

This monopoly was accomplished: (1) Through the continuance of its methods of fixing and enforcing the prices at which the jobbers and retailers were compelled to sell to the consumer although it was expressly prohibited from doing this particular thing and its action in that regard is in violation both of the letter and spirit of the judgment of the Federal court, one of the express purposes of which was to put a stop to this practice of limitations upon resale prices. (2) By the subsequent acquisition of competing concerns, some of which were operated ostensibly as competing businesses, which was also in violation of the express prohibitions of the decree. (3) By the purchase of foreign patents, one of which had actually started into competition in this country at the time, the business of which was closed out and others of which were potential competitors, so that Company is now in possession of the entire field and its few remaining competitors are so financially weakened by oppressive litigation that they are unable to carry on the struggle.

The acquisition and holding of these competing patents in one ownership is believed to be a violation of the Anti-Trust laws. Your Committee is advised that there is no more warrant for monopolizing or restraining competition in an article that may be manufactured in different ways by different patented methods than in one that is not protected by patents and that the Anti-Trust laws now on the books were enacted for the purpose of preventing that form of monopoly.

Your Committee is advised that the judgment of the Federal Court has been violated and accordingly has caused the record made before this Committee to be forwarded to the Department of Justice of the United States.

## CHAPTER 9.

### CONDITIONS IN THE MATERIAL SUPPLY BUSINESS IN THE CITY OF BUFFALO.

At the earnest request of the public authorities and others in the City of Buffalo your Committee spent a few days in that City in the taking of testimony bearing upon the existence of combinations in the building industry in that City.

Although its investigation was not comprehensive because of lack of time and it was not able to inquire into the labor situation in that City, it found in the City of Buffalo and the adjacent territory a situation in many respects similar to that existing in the City of New York and which may be summarized as follows:

*The Brick Monopoly.*—At the time of our investigation, the owners and builders found themselves confronted with the same inflexible uniformity of price for building materials and the same insurmountable monopoly with which they were face-to-face in the Eastern part of the State. For many of the controlling combinations existing in the City of New York there exists its counterpart in the City of Buffalo. In both cities these combinations have the same scope of activity, similar methods of operation and of detail of organization, the same illegal purposes and in some cases almost the same name.

Corresponding to the Greater New York Brick Company of New York City there is in Buffalo the Queens City Brick Company which has absorbed and closed down a number of formerly competing plants.

This concern is in itself a consolidation of three of the largest brick manufacturers in the vicinity of Buffalo. Indeed, these three concerns practically control the trade in that territory. The Queens City Brick Company is a clearing-house for these manufacturers and was organized as a medium for distributing the supply and fixing the price of brick within their geographical jurisdiction.

The General Sales Manager of the Company, Charles B. Reinhardt, testified that he was the sole authority to divide the orders:

“When I get an order I give each yard a portion of the order” and again:

"The Queens City Brick Company is simply a conduit or cover under which the three concerns were able to get together and avoid competition between one another and divide the business between them."

The minutes of the corporation show that the price of brick was periodically fixed and changed by agreement and that in conformity with these resolutions the manufacturers maintained the agreed price until it was revised by the same men and in the same way. The three members, having an aggregate capacity of 18,000,000 brick, were the Ellicott Brick Company, the North Collins Shale Brick Company and the Dietschler Company.

By co-ordinating their operations and combining to fix the price, they drove out of business almost all their competitors in the surrounding districts. Since 1913 at least five formerly prosperous plants were dismantled. The wrecked yards had a capacity of nearly 20,000,000 brick a year.

It also appears from the evidence that this group of manufacturers refrained from shipping brick to New York city or to Rochester although there was a wide disparity between the prices in these cities and those prevailing in Buffalo.

In like manner the manufacturers of brick on the Hudson river and from, in and around Rochester refrained from invading the Buffalo territory or the zones in which each of them is active. All these concerns deal in the ordinary building brick.

The distribution of face brick in and around Buffalo is concentrated in the John H. Black Company of Buffalo. That Company is the agent for the Alliance Brick Company, American Enamel Brick & Tile Company, Belden Brick Company of Canton, Ohio, Bradford Press Brick Company, Darlington Brick & Mining Co., Ballston Fire & Clay Company, Hydraulic Press Brick Company, Western Brick Company and other concerns producing similar material. All these Companies represented by Black and others doing a similar business are associated in the American Face Brick Association.

The prices for the commodities manufactured by the members of this Association are fixed by price-lists issued at stated periods.

*The Building Material Dealers Credit Association.*—This organization consists of 11 members engaged in the building material business. It was organized in 1918. Its plans were made at weekly meetings held on Friday night. At these meetings prices were openly discussed and an understanding



reached concerning them. How well the members kept their unlawful agreements with one another is demonstrated by the simultaneous increases in prices that characterized the last few years. All the members edited and issued price-lists that agreed with each other in the most minute detail.

This organization was connected with the State Building Materials Association, having a membership of over 300 members, operating throughout the entire State, except New York City. A special feature of the State Association was its publication of a monthly magazine that served as a guide for the members of the Association in fixing their prices.

*Buffalo Gravel Corporation.*—This organization accomplished its purpose of monopoly through a general agency agreement for four producing companies, to wit: The Empire Limestone Company, Perry Victoria Sand Company, Squaw Island Sand Company and the Niagara Sand Company. It was organized as a corporation in 1919. The four companies represented in it control the output of sand and gravel in the City of Buffalo.

Prior to that time there had been competition. Since the organization of the Buffalo Gravel Corporation competition has ceased.

All the members clear their sales through the central corporation, the President of which fixes the price at which the product is to be marketed. The four members have an agreement with the central organization which permits the corporation to fix the price, to zone the district and allot the business done by the members into quarterly shares as nearly as practicable. The corporation does about 80 per cent of the business in Buffalo. The remaining 20 per cent is in the hands of the Holloway Sand Company which has strangely enough adopted a schedule of prices and a zoning map conforming to and apparently in every respect in agreement with the Buffalo Gravel Corporation.

This corporation is affiliated with and acts in cooperation with the National Association of Sand and Gravel Producers.

*House Painters and House Decorators Association.*—This organization has upwards of 60 members. It is a local Association the activities of which are confined to the City of Buffalo. It has a Constitution and By-laws a feature of which is the provision that the members bind themselves not to reveal anything that may be declared private by the Association.

No attempt is made to conceal the fact that this organization fixes prices periodically. On April 10, 1918, a resolution was

passed increasing the price 25 per cent over the then existing price. The minutes of the Association disclose several resolutions of this character.

*Master Plumbers Association of Buffalo.*— This is an organization of long standing. It had a membership at the time of your Committee's visit to Buffalo of about 125 members. Its Constitution and By-laws are most despotic. If one of the members stops work on a building for any reason whatever, whether right or wrong, no other member of the Association can complete the work even though the member who stopped work violated his contract and was at fault.

The functions of this Association are apportioned to various Committees. Meetings are held semi-monthly. Prices for material and labor used in the plumbing business are fixed. The minutes of the Association are replete with resolutions of this character.

*The Jobbers and Plumbers Library.*— This organization was in existence for about 8 years until April, 1921, when it was said to have been dissolved after your Committee had been for about six months engaged in taking testimony in the City of New York and doubtless as a result of its activities.

Its operations extended throughout the City of Buffalo and included other Upstate cities. The so-called "Librarian" was a center from which radiated its price-fixing machinery. Price sheets were circulated to the subscribers to the Library at such times as the members deemed desirable. The influence of this "Library" on prices was felt not only in Buffalo but in Utica, Syracuse, Batavia, Elmira and other Upstate cities.

At the meetings of the Library, usually held in Syracuse, understandings were reached concerning the prices to be charged.

Your Committee proposes to make further investigations to determine whether this obnoxious combination has in fact been dissolved and also to inquire into the general rumor that there are Local combinations among dealers in these and other lines of building materials in the Cities of Syracuse, Utica, Batavia and Elmira.

*Buffalo Sheet Metal Association.*— There are approximately 35 members in this organization. A Committee of the Association fixes the prices to be charged and after the adoption of its action by the Association the lists are sent to the entire membership. They cover practically all forms of sheet metal and provide for a fixed price to be charged members for the various kinds

of work done. Throughout the minutes of the Association these price-fixing resolutions are found.

*Buffalo Lumber Dealers Association.*— There are 29 members in this Association. Identified with it and part of it is the Buffalo Lumber Dealers Credit Corporation. The Association operated under a Constitution and By-Laws and has weekly meetings. The Credit Corporation is a harmless adjunct and is in itself an entirely legitimate agency.

Each member reports monthly to the Credit Corporation its entire Accounts Receivable together with the age of the account and the credit status of the customer is thus rated.

The members of the Association receive annually a cost-sheet fixing the prices. This is based on the individual price-lists submitted by each member to the Secretary of the Association. The Committee found the prices as scheduled under these lists to be uniform and that they rose and fell simultaneously but there was not time to investigate as to the precise manner in which this was accomplished.

*New York State Builders Supply Association.*— This Association has a membership of about 400 concerns engaged in the building business. The entire State is divided into zones or districts by a map which, however, excludes the City of New York. All the members are retail dealers in mason and builders' supplies. The main office of the organization is located in Buffalo. There are about 35 Directors on the Governing Board and 10 officers in the Association. It issues a monthly magazine called "Builders Supplies" which contains current prices on building material in each locality.

A resolution of the Association dated March 19, 1919, discloses that the members were excluded from the territories operated by other members unless the latter member was allowed to handle the transaction. A member offending against the price-fixing regulations or "courtesies" formulated by the Association was expelled.

As a result of the brief, partial and necessarily superficial examination thus far made by your Committee of conditions in the City of Buffalo, a number of indictments have been found in the State Court in that City through the cooperation of the District Attorney of the County of Erie assisted by two of the members of the Prosecuting Staff of this Committee who were furnished to the District Attorney at his request. These indict-

ments were found many months ago and are believed to be based upon adequate evidence. None of the cases has yet been brought to trial.

In one of these cases Mr. Justice Pooley of the Supreme Court sitting in Buffalo has just decided that the Donnelly Act under which the indictments were framed is unconstitutional in that in the year 1918 and after it had been for more than 22 years on the Statute Books it was amended by excluding certain dairymen, farmers and others from its operation.

It is the purpose of the Committee to urge a prompt appeal. The effect of this decision, if sustained, upon building conditions and upon business generally would be far reaching and disastrous.

## CHAPTER 10.

### PROSECUTIONS AND INDICTMENTS.

#### (1) Table of Indictments and Convictions.

Inasmuch as the prosecutions growing out of the investigations of this Committee, especially in the State Courts, have been conducted under the general supervision of the Counsel for the Committee who was appointed a Special Deputy Attorney General and Special Assistant District Attorney in the County of New York for that purpose and who also co-operated in the cases where violations of the Federal Anti-Trust Law were disclosed to the Federal Department of Justice, a list is herewith submitted containing a summary of the status of such prosecutions:

Total Number of Individuals and Corporations Indicted.	666
Individuals .....	416
Corporations .....	250
Federal Indictments .....	296
Individuals .....	175
Corporations .....	121
New York County and Attorney General.....	370
Individuals .....	241
Corporations .....	129

---

---

#### Industries — Number of Indictments in Each Industry.

Contracting .....	1
President, Bldg. Trades Council.....	6
Metallic Lathers .....	16
Labor Delegates .....	12
Mason Supply Dealers.....	54
Cut Stone Contractors .....	43
Master Plumbers .....	79
Investigators .....	2
Attorney .....	1
Marble:	
Individuals .....	34
Employers .....	30

Stone Mason Contractors.....	49
Stone and Gravel .....	15
Tiles .....	53
Terra Cotta .....	68
Window Glass .....	104
Cement .....	64

**Total Pleas:**

Pleaded "Guilty" .....	255
Pleaded "Not Guilty" .....	324

Fines paid by those who Pleaded "Guilty" and who have been convicted, \$550,000.

(These fines cover only 208 individuals and corporations thus far sentenced.)

**Prison Sentences Imposed to Date.****New York County and Attorney-General:**

- 1 — 5 to 10 years.
- 1 — 6 months.
- 5 — Indeterminate Sentences (1 day to 3 months).
- 1 — 90 days, City Prison.
- 1 — 60 Days, City Prison.
- 5 — 30 Days, City Prison.
- 8 — 10 Days, City Prison.
- 2 — 5 Days, City Prison.
- 1 — 30 Days, Workhouse.
- 32 — Sentence Suspended.
- 19 — 6 Months to 3 Years (sentence suspended).

**Federal:**

- 3 — 4 Months and \$4,000 fine each.
- 1 — 2 months and \$3,500 each.

**Total Number of Individuals Who Received Prison Sentences.**

Federal . . . . .	4
New York County and Attorney-General.....	25
Sentences Suspended .....	32

**Nature of Charge:**

Perjury . . . . .	1
Attempted Extortion .....	1

*Nature of Charge:*

Extortion .....	13
Violation Sec. 812 of Penal Law.....	16
Violation Sec. 1330 of Penal Law.....	9
Violation Sec. 341 General Business Law (Donnelly Act) .....	205
Conspiracy .....	105
Violation Sherman Act (Federal).....	295
Pending and undisposed of.....	266

This list includes an indictment in the Federal Court of 104 corporations, firms and individuals constituting the alleged combination of manufacturers and distributors of flat glass above referred to. A demurrer to this indictment has recently been sustained on technical grounds which your Committee is advised will be readily overcome by a superseding indictment that is about to be asked for. The case had been set for trial when this objection was taken, which does not, however, affect the merits of the charge.

The above list does not include any of the indictments found by the Erie County Grand Jury as the outcome of the investigation of conditions in Buffalo hereinafter referred to.

**(2) Administration of the Laws Against Illegal Combinations.**

Your Committee regrets to have to report that it finds the legal machinery for the enforcement of the conspiracy laws against illegal combinations to be inadequate in both the State and Federal courts, but in making this statement no reflection is intended upon the public officials having in charge the execution of these laws.

We have had upon the statute books of the State of New York the statute against conspiracies in restraint of trade, being section 580 of the Penal Code, and the so-called Donnelly Anti-Trust Act, chapter 25, section 340, of the Laws of 1909. Notwithstanding the fact that the City of New York has been for upward of twenty years the headquarters for most of the illegal combinations in the building industry and in fact of international combinations from which the people of this country have been and are suffering; no successful effort has been made to suppress or punish these conspiracies.

These laws have been generally regarded as a "dead letter." On rare occasions, when the people have been stirred to action

by exceptionally flagrant and long-continued oppression by reason of these restraints in the necessities of life, the officials have been stirred to action. In all the twenty-two years of the existence of the Donnelly Act there was a criminal prosecution and conviction in New York county in only a single case. A like situation, so far as concerns the resort to the use of the Anti-Trust Law as a criminal statute, applies to the Federal prosecuting officials.

The Department of Justice generally resorted to the insufficient remedy of civil suits and injunctions. This usually meant years of litigation and by the time the issues were decided the combinations had taken on other forms.

In point of fact, there has been no concentrated or systematic effort to enforce these laws. There has been no adequate legal equipment supplied to enforce them. They have grown so numerous and so powerful that it would require many judges, prosecutors and investigators and a decade of time to exterminate them if in fact they can now be exterminated.

The co-operation of the Attorney-General of the State was immediate and without reservation. Special assistant attorneys-general were designated by him upon the recommendation and request of the Committee, expert investigators, assistants, and clerks were employed and a complete organization was set up, with the results above indicated already accomplished.

Many of the offenses disclosed by the inquiry have not yet been presented to grand juries, owing partly to the fact that neither the grand juries nor the other legal machinery were available. This work is still to be done. The local prosecuting attorneys have lent such aid as was in their power, but they, too, were without the men or means for this exceptional work.

The present Attorney-General of the United States promised active assistance and co-operation and the Committee has had, through the agency of the United States District Attorney of New York, such co-operation as the latter was able to give with the limited staff and the still more limited appropriation at his command. He has been sincere and enthusiastic in his efforts but has been handicapped by the absence of the necessary money to properly organize a staff for the work with the result that he has thus far been able to present only a few of the many cases for indictment and none has been tried except the Terra Cotta Association, in which the trial was begun and was suspended upon a plea of "guilty" by the defendants, which resulted in the mere imposition of fines.



In one of other cases in which an indictment was found by the Federal grand jury (that of the members of the Tile, Grate and Mantel Association) the defendants entered pleas of "guilty." Four of the chief offenders were sentenced to short prison terms and the others were discharged with the imposition of fines. The members of the Eastern Cement Manufacturers Association and of the Glass Manufacturers Association were also indicted. The former case has been set for trial in April next, after a delay of more than six months. A demurrer has been sustained to the indictment against the Glass Manufacturers on a technical ground which it is believed can be readily overcome by a superseding indictment.

Others of the cases submitted by the Committee to the Federal prosecutor are under consideration. There are a dozen or more such cases, involving the most important lines of business connected with the building industry, that constitute offenses against the Federal law.

Your Committee, through its counsel, has repeatedly urged upon the Department of Justice that an adequate appropriation be asked from Congress with which to employ the necessary expert assistants, investigators and staff without which these prosecutions cannot be successfully conducted but so far as known no favorable action has yet been taken upon this request although the Attorney-General has been assured that the appropriation would be forthcoming. Until these cases are prosecuted it is not to be expected that the combinations will be dissolved.

One of the reasons that has for years been most persistently urged against the enforcement of the Federal Anti-Trust Laws as criminal statutes was the supposed unwillingness of juries to convict in such cases. The experiences of the Committee have demonstrated no basis for this assertion.

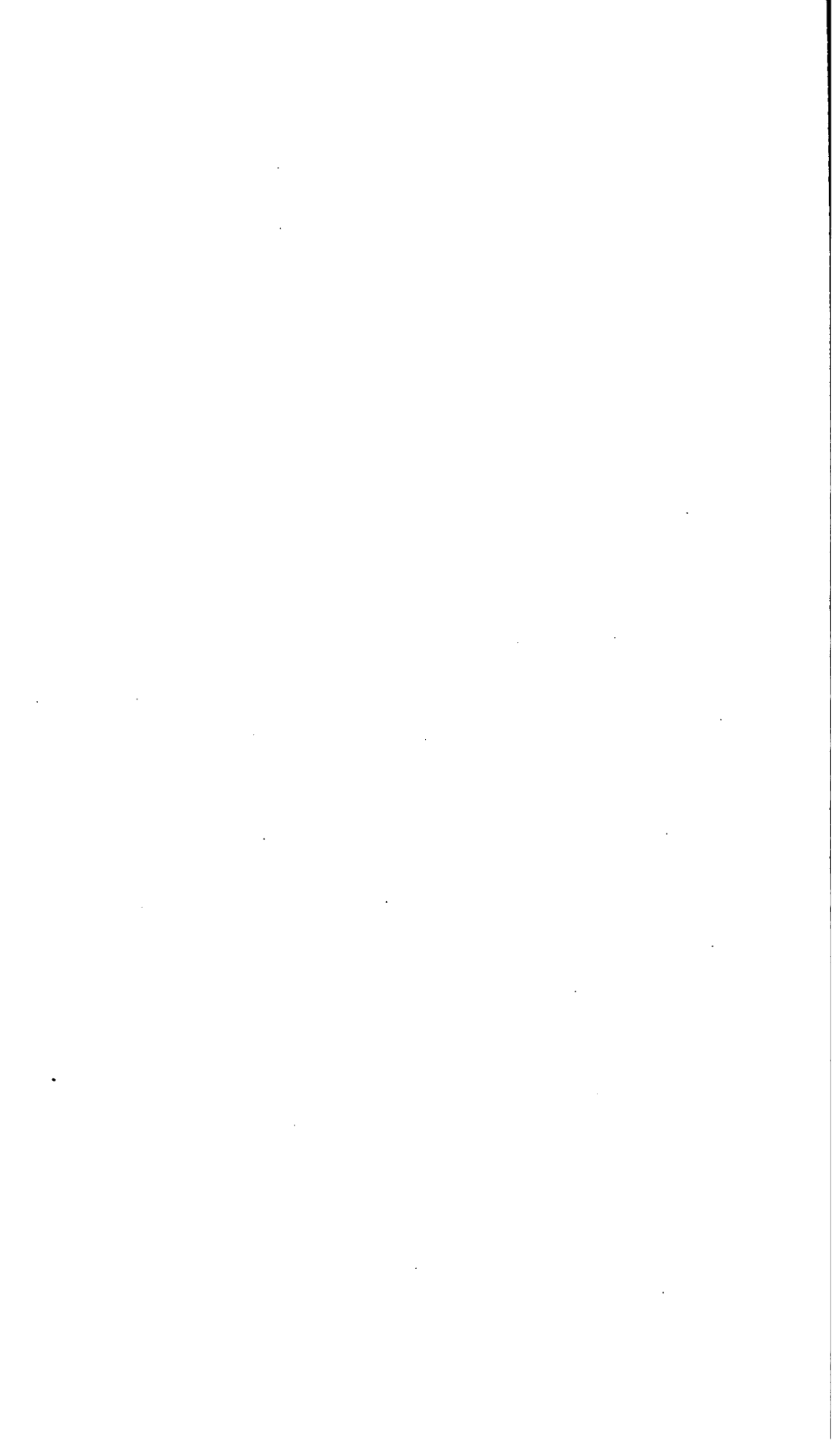
The judges, both in the State and Federal courts, have almost consistently treated this class of offenders with tender consideration. In one case in the State court in which the manufacturers of brick and dealers in building materials were proven guilty of the most overt acts, constituting willful frauds upon the public, the court allowed all the defendants to escape with fines.

The court in that case expounded the extraordinary view that because of the business and social station of these men the humiliation of being compelled to plead "guilty" to a crime the im-

position of comparatively small fines upon them was a sufficient punishment.

The same point of view seems to prevail with the Federal judges.

There is no hope of compelling obedience to these laws or of enforcing them so long as the courts adopt this attitude.



---

---

## **FINANCIAL PART.**

---

---



## CHAPTER 11.

### GENERAL OBSERVATIONS AND STATISTICS APPERTAINING TO ALL CLASSES OF INSURANCE COMPANIES, BANKS AND TRUST COMPANIES.

One of the chief causes leading to the housing shortage has been the withdrawal of funds of the Insurance Companies from the loan market with the notable exception of the Metropolitan Life Insurance Company which has for some years past been the main support of the loan market and the chief encouragement to building operations.

These Companies have during the past five years and up to the end of 1920 withdrawn from the loan market the support that it had previously received from them. This change of policy was due in part to their patriotic assistance in purchasing great quantities of Government Bonds so as to assist in financing the needs of the war, for which they are entitled to unstinted commendation. It was, however, also due in great part to the inducements and temptations brought about by the high rates of interest that were obtainable on railroad and industrial bonds and notes and especially on new issues of those securities and tax exempt securities that were made from time to time.

It will be seen from the data hereafter referred to that some of the great Life Insurance Companies — notably the Mutual Life — actually reduced their loans on bond mortgages on real estate and the proportion of their constantly increasing assets in this class of security was steadily reduced by demanding payments on outstanding loans, thus adding to the demoralization and discouragements of the real estate mortgage market at the most critical time in its history, for which your Committee regards them as deserving of severe condemnation.

The total investments of the Mutual Life in Real Estate Mortgages at the end of 1912 were \$139,691,000. At the end of 1919 they were \$100,754,000.

For the year 1912 the investments of the Metropolitan Life Insurance Company in Real Estate Mortgages were \$337,394,000. At the end of 1919 they were \$741,387,000.

Every one of the large New York life insurance companies other than the Mutual Life increased its loans during that period.

For the purpose of determining upon the legislation that will be necessary in the way of readjusting and limiting the investments of Insurance Companies, your Committee caused an exhaustive and elaborate survey to be made of all the investment transactions of the principal Insurance Companies of all classes in the United States, covering a period of 14 years—from 1906 to 1919, both inclusive—year by year, and of the State Banks and Trust Companies, covering the same period.

This was accomplished through expert accountants who spent upwards of one year in the investigation with the aid at times of as many as fifty or more assistant accountants. All the data upon which the conclusions of the accountants were based was secured from official sources, including the annual reports of the Superintendents of Insurance and of Banks respectively of the State of New York and the responses received to the questionnaires and supplementary letters sent by the Committee in the Autumn of 1920 to the Insurance Companies and the banking institutions doing business in the State of New York.

The data compiled includes each of the years 1906–1919 (both inclusive). As much of this data was intended for use by the Committee at the end of 1920 and the early part of 1921 it was impossible to secure within the required time the results of the year 1920.

Several of the exhibits were prepared by employees of the Insurance and Banking Departments of the State of New York working under the instructions of the accountants and all of them were revised by such accountants so as to reduce the possibility of errors to a minimum.

It would have been impossible and prohibitive in the way of time and expense to have extended this investigation to every Insurance Company of every class doing business throughout the United States. It was accordingly decided to gather the data of all the Life Insurance Companies in New York and other States but as to the other classes of Insurance Companies to select only the most important ones.

The following is a statement of the number of companies of each class doing business in the State of New York in relation to the number that were selected for the purpose of the statistics that are herewith submitted:

	Companies Doing business	Selected for statistics
Life Insurance:		
New York State.....	14	14
Other States .....	23	23
Fire and Marine:		
New York State.....	50	16
Other States .....	111	24
Casualty:		
New York State.....	36	16
Other States .....	37	24
Total .....	<u>271</u>	<u>117</u>

The utmost that can be done in this Report without extending it to impossible lengths will be to summarize a few of the facts and figures that appear year by year and in great detail in some of these exhibits.

Accompanying this report will be found an Intermediate Report by Messrs. Touche Niven & Co., the certified accountants in question, explaining in detail the manner in which the schedules were prepared, the sources from which the data was gathered and the system on which the exhibits have been compiled. Since this document has been prepared many other exhibits have, however, been added of which no such explanation has yet been furnished but which sufficiently indicate on their face all the facts required in connection with the study of those exhibits.

Included among the exhibits is a series of three charts in which some of the important results reflected in the other exhibits are presented in graphic form to facilitate a comparison of the figures. There are also appendices consisting of official copies of questionnaires and letters of inquiry chronologically arranged that were sent to the various Insurance Companies, Banking Institutions and individuals for the purpose of obtaining such information as was required and which did not appear in the Annual Reports of the Superintendents of Insurance and Banking Departments.

A study of these voluminous exhibits with the explanatory notes accompanying them establishes the following facts:



1. That the ratio of income earned on mortgage loans on real estate by all classes of Insurance Companies and banking institutions not only in the State of New York but throughout the United States has been greater by approximately 1 per cent and more stable and constant almost invariably than has been the rate of income earned on bonds, stocks and other securities of these institutions. Assuming the average annual return of earnings on all securities of the Companies to be 5 per cent year in and year out for the past 14 years, this means that the income from mortgage loans on real estate has been approximately 25 per cent greater than the income from other securities.

2. Notwithstanding the greater earning power, stability and safety of such mortgage loans as investments, the Insurance Companies and the Banking Institutions, with the exception of the savings banks, have invested a far greater proportion of their resources in bonds and stocks than in mortgage loans on real estate.

3. There has been a general tendency on the part of both the Life Insurance Companies and the banking institutions in the years from 1915 to 1919 (both inclusive) to decrease the proportion of their resources invested in mortgage loans and to correspondingly increase their investments in bonds, stocks and other securities.

4. The increase in the ratio of investments of insurance companies in United States bonds during the period of the war when these investments were necessary, resulted in a decrease in the investments in mortgage loans; in some instances there was also a decrease in the investments in bonds, stocks and other securities but not in anything like the proportion in which the investments on mortgage loans were decreased.

5. All classes of insurance companies of other States have invested on the average throughout this period of 14 years a far greater portion of their available resources in mortgage loans than have the Companies in New York State.

6. The Life Insurance Companies of New York State have invested proportionately more in mortgage loans in other States in relation to the insurance that they have outstanding

in those States than the Insurance Companies in other States have invested in mortgage loans in New York State in relation to the insurance that the latter have outstanding in the State of New York.

7. Some of the Insurance Companies have invested in mortgage loans a much smaller proportion of their resources than the average shown by all of the Companies combined, the investments of the Fire, Casualty, Fidelity, Surety and Marine Companies in particular being only a small fraction of the general average.

8. Several Life Insurance Companies have invested a greater ratio of their available resources in stocks than the average shown by the Life Insurance Companies as a group.

9. The low rate of income earned in the years 1919 and 1920 by some of the Fire, Casualty, Surety, Fidelity and Marine Insurance Companies on their investments in bonds, stocks and securities other than mortgage loans is due to extraordinary losses that were incurred in these years in the disposition through sale or otherwise of railroad, public utility and industrial and other securities of an apparently unstable and speculative investment value.

10. The Fire, Casualty, Public Liability, Fidelity, Surety and Marine Companies, especially in the State of New York, have invested as a rule a trifling fraction of their resources in mortgage loans and a negligible proportion of their invested assets as compared with the Life Insurance Companies and the banking institutions.

11. There has been a gradual tendency on the part of the Fire, Casualty, Public Liability, Fidelity and Surety Companies of New York State to decrease the ratio of their investments in mortgage loans until they are almost entirely excluded from their assets. This is not true to anything like the same extent of like Companies of other States.

12. The ratio of total resources of the savings banks of the State of New York invested in mortgage loans has been large and fairly constant. They increased slightly during the nine years from 1906 to 1914; but since then the tendency has been to slightly decrease the ratio of these investments, the decrease being, however, more than offset by the increased ratio of investments in United States securities.

**CONCLUSION NO. 1.**

The ratio of income earned on mortgage loans by all classes of both insurance companies and banking institutions has been greater by approximately one per cent and most constant almost invariably than has been the rate of income earned on bonds and stocks.

*Summary of Statistics in Support of Conclusion No. 1.*—The percentages of income to investments in bonds and stocks and in mortgage loans, respectively, for the years 1906 and 1919, together with the average for the entire period, for the several groups of insurance companies and banking institutions, as reflected in the above-mentioned exhibits, are summarized, as follows:

GROUP	YEAR 1906*		YEAR 1919		AVERAGE FOURTEEN YEARS* 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
<b>INSURANCE COMPANIES</b>						
Life:						
New York State.....	4.27	4.56	3.90	5.06	4.24	4.97
Other States.....	4.19	5.04	3.78	5.32	4.19	5.26
Fire and Marine:						
New York State.....	4.19	4.89	1.06	5.50	4.17	5.11
Other States.....	4.55	5.03	2.99	5.42	4.21	5.20
Casualty:						
New York State.....	3.62	0.96	3.00	4.66	4.01	4.74
Other States.....	4.15	5.23	4.51	5.65	4.46	5.50
<b>BANKING INSTITUTIONS</b>						
Savings Banks†.....	3.74	4.57	4.23	4.79	3.87	4.72
Banks of Deposit and Discount.	4.74	5.67	5.10	5.70	4.99	5.70
Trust Companies.....	4.98	5.07	5.22	5.30	5.00	5.23

The following tabulation shows in comparative form the percentages of income earned in investments in bonds and stocks and

\* Period of only eleven years covered for Banking Institutions from 1909 to 1919, inclusive.

† Information not available for all of the Savings Banks, but compilation covers a group of five representative banks.

in mortgage loans by the more important life insurance companies of New York State for the years 1906 and 1919, and the averages for the intervening period of fourteen years, as per Exhibit "A", Part I, Schedule "B" (page 2):

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
Equitable.....	3.94	4.39	3.76	4.69	4.03	4.72
Metropolitan.....	4.59	4.83	5.18	5.25	4.42	5.28
Mutual.....	4.67	4.57	3.91	4.90	4.73	4.79
New York.....	4.10	4.47	3.06	5.14	3.94	4.96

The following is a tabulation showing, in comparative form, the percentage of income earned on investments in bonds and stocks and in mortgage loans by the more important life insurance companies of other states for the years 1906 and 1919, and the averages for the intervening period of fourteen years, as per Exhibit "A", Part I, Schedule "C" ( pages 4 and 5 ):

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
John Hancock Mutual.....	4.09	5.16	4.16	5.78	4.22	5.80
Massachusetts Mutual.....	4.27	4.66	4.31	5.15	4.38	5.02
Mutual Benefit.....	3.91	4.96	4.27	5.05	4.21	5.01
New England Mutual.....	3.78	4.18	4.70	4.99	4.37	4.51
Northwestern Mutual.....	4.15	4.64	4.30	5.07	3.96	4.94
Penn Mutual.....	4.56	5.14	2.34	5.49	4.15	5.38
Prudential.....	4.58	4.80	4.42	5.18	4.41	5.12

*Fire and Marine Insurance Companies of New York States.*—Schedule "D" of Exhibit "J" gives a comparison in graphic form of the rate of income earned on bonds and stocks and on mortgage loans, respectively. The same general conditions are disclosed by this graph as those stated in the comments regarding Schedules "A", "B" and "C" of this exhibit but to even a greater degree. It shows that although in some instances the rate of income earned by the fire and marine insurance companies on mortgage loans has been greater than that earned by the life insurance companies, the rates have not been constant, indicating no doubt that the class of mortgage loans in which the fire and marine insurance companies have been investing is not as substantial or reliable as the mortgage loans of the life insurance companies. The line or curve of income earned on bonds and stocks reflects the most extraordinary conditions, showing earnings as high at 7.46 per cent in 1909, to as low as a loss of .55 per cent in 1917. This and similar variations tend to prove that the fire and marine insurance companies have invested their funds in rather speculative securities entailing at times extraordinary losses. This is particularly apparent in the year 1917 when all of their earnings on bonds and stocks were greatly exceeded by the losses sustained during that year.

Exhibit "R", Part II, shows that the percentage of income earned by the several companies on their investments in bonds and stocks was greater in some years than that earned on their investments in mortgage loans, viz.:

Continental Insurance Company—years 1909 to 1912, 1915, 1916 and 1918.

Fidelity-Phenix Fire Insurance Company—years 1908 to 1912, 1914 to 1916, and 1918.

Globe & Rutgers Fire Insurance Company—years 1911, 1913, 1915 and 1916.

Great American Insurance Company—years 1906, 1907, 1910, 1912, 1913, 1916 and 1917.

Home (Fire) Insurance Company—year 1906.

Below is a tabulation showing in comparative form the percentages of income earned on investments in bonds and stocks and in mortgage loans by the more important fire and marine insurance companies of New York State for the years 1906 and 1919, and the averages for the intervening period of fourteen years, as per Exhibit "A", Part I, Schedule "D":

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
Continental.....	3.73	4.74	4.42	5.01	5.31	2.90
Globe and Rutgers.....	3.62	4.70	1.28*	6.72	3.64	5.68
Great American.....	4.80	4.78	0.41*	5.39	4.04	5.53
Home.....	4.34	4.30	0.51*	5.27	3.67	5.34
Queen.....	3.30	4.25	4.12	4.95	3.89	4.72

\* Loss.

*Fire and Marine Insurance Companies of Other States.*—Hereunder is a tabulation showing, in comparative form, the percentages of income earned on investments in bonds and stocks and in mortgage loans by the more important fire and marine insurance companies of other States for the years 1906 and 1919 and the averages for the intervening period of fourteen years, as per Exhibit "A", Part I, Schedule "E":

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
Hartford.....	4.71	5.01	1.25	4.95	3.97	5.02
Insurance Company of North America.....	4.76	4.74	3.11	4.44	4.61	5.06
National Fire.....	4.44	5.55	3.71	5.61	4.18	5.11
Phoenix (Conn.).....	4.66	5.88	2.99	4.94	5.50	5.11
St. Paul.....	4.15	4.95	0.74*	5.56	4.19	5.41

\* Loss.

*Casualty Insurance Companies of New York State.*—Below is a tabulation showing, in comparative form, the percentages of income earned on investments in bonds and stocks and in mortgage loans by some of the important casualty insurance companies of New York State for the years 1906 and 1919, and the averages for the intervening period of fourteen years. The American Surety Company is not included in this tabulation because it appears that the investments of that company in mortgage loans extended only from 1909 to 1915, inclusive. The Fidelity and Casualty Company was not included because that company apparently had no investments in mortgage loans during the period from 1906 to 1919. The percentages shown in the tabulation are to be found in Exhibit "A", Part I, Schedule "F":

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
National Surety Co. ....	2.96	6.11	0.05*	5.58	3.54	3.12
New Amsterdam Casualty Co. (a)	3.27	.....	4.34	3.92	3.62	5.25
referred Accident Insurance Co (b) .....	3.72	.....	4.45	5.54	3.97	5.22
United States Casualty Co. (c) ...	3.82	.....	4.48	4.44	4.04	4.87

\* Loss.

(a) Company had no investment in mortgage loans in 1906, 1907 and 1908.

(b) Company had no investment in mortgage loans from 1906 to 1910, inclusive.

(c) Company had no investment in mortgage loans in 1906.

Following is a tabulation showing, in comparative form, the percentages of income earned on investments in bonds and stocks and in mortgage loans by the more important casualty insurance companies of other states for the years 1906 and 1919 and the averages for the intervening period of fourteen years, as per Exhibit "A", Part I, Schedule "G":

NAME OF COMPANY	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
Aetna Casualty and Surety Co.*	4.91	4.31	4.25	6.51	4.68	5.89
Aetna Life (Casualty Depart- ment)†	7.98	9.64	4.46	5.02	5.92	5.29
Continental Casualty Co.	5.63	5.25	3.25	5.21	4.12	5.30
Hartford Steam Boiler Inspection and Insurance Co.	4.83	5.16	4.40	5.27	4.61	5.19
Standard Accident.	4.31	5.60	4.77	5.47	4.39	5.51
U. S. Fidelity and Guaranty Co..	2.63	4.92	4.68	6.15	4.05	6.16

\* Beginning with year 1907.

† Beginning with year 1908.

The schedules relating to the investment of savings banks include an analysis of the investments of all the savings banks in the State of New York. They show that upwards of 49 per cent of the average deposits of all the banks in the State of New York are invested in bonded mortgage on real estate within the State. Some of the larger and more prosperous of the banks show an investment of upwards of 60 per cent of the total deposits in mortgage loans whilst others show very much below the average.

In this connection and as bearing upon the safety and desirability of this form of investment, attention is directed to the fact that of the \$1,150,000,000 of assets of the Metropolitan Life Insurance Company, upwards of \$454,000,000 are now invested in mortgage loans on real estate being over 40 per cent of the total assets.

*Savings Banks.*—During the period indicated the average rate of income earned by these companies on mortgage loans was 4.72 per cent while the return on bonds and stocks was 3.87 per cent. The highest return on mortgage loans appears to have been earned in the year 1918 when the rate was 4.80 per cent and the lowest in 1909 when the rate was 4.57 per cent. On bonds and stocks the highest income, 4.23 per cent, appears to have been earned in 1919 and the lowest, 3.73 per cent in 1910. For all



of the years and for all companies embraced in these statistics, the rate of return on bonds and stocks was lower than the return on mortgage loans.

Following is a tabulation showing, in comparative form, the percentage of income earned on investments in bonds and stocks and in mortgage loans by the more important savings banks for the years 1909 and 1919 and the averages for the intervening period of 11 years as per Exhibit "R," Part IV, Schedules "B," "C," and "D":

NAME OF COMPANY	YEAR 1909		YEAR 1919		AVERAGE ELEVEN YEARS 1909 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
Bowery.....	3.75	4.06	4.40	4.25	3.85	4.39
Central.....	3.56	4.79	4.13	4.92	3.74	4.83
Emigrant Industrial.....	4.22	4.56	4.43	5.01	4.21	4.75
Seamen's.....	3.29	4.66	3.61	4.84	3.44	4.67
Williamsburg.....	3.83	5.17	4.26	5.03	3.96	5.06

*Banks of Deposit and Discount.*—In Schedule "B," Part I of Exhibit "E" is shown a comparison of the ratios of income on investments of banks of deposit and discount, doing business in the State of New York, in bonds and stocks and in mortgage loans, respectively, for the years 1909 to 1919, inclusive.

It seems that, at all times during that period, the income earned on mortgage loans was greater than that earned on bonds and stocks. The highest return on mortgage loans was earned in the year 1915 when the rate was 5.84 per cent and on bonds and stocks in 1919 when the rate was 5.10 per cent almost equalling the rate earned on mortgage loans for that year. The lowest return earned on mortgage loans appears to have been in the year 1909, when the rate was 5.67 per cent and on bonds and stocks in the year 1909 when 4.74 per cent was earned.

The percentages of income earned on investments in bonds and stocks and in mortgage loans by several of the important banks of

deposit and discount for the years 1909 and 1919 are shown below in comparative form:

NAME OF BANK	YEAR 1909		YEAR 1919	
	Bonds and stocks	Mortgage loans	Bonds and stocks	Mortgage loans
Corn Exchange Bank, New York.....	5.27	5.27	4.84	5.15
Mechanics Bank, Brooklyn.....	4.50	5.00	5.25	5.75
Liberty Bank of Buffalo.....	4.70	5.00	4.98	5.94

*Trust Companies.*—Recurring to Part I, Exhibit “E,” Schedule “C” thereof it will be noted that the rate of return earned by the trust companies on investments in mortgage loans, was greater at all times than the return on bonds and stocks although in the year 1919 the rate earned on mortgage loans was not much in excess of the rate earned on bonds and stocks. The highest rate earned on mortgage loans was in the years 1915 and 1918 when the rate was 5.31 per cent and on bonds and stocks in the year 1919 when the rate was 5.22 per cent. The lowest return on mortgage loans was 5.07 per cent. in the year 1909 and 4.79 per cent on bonds and stocks in the year 1914.

Because of insufficient information it is impossible to present a tabulation, in comparative form, showing the income earned on investments by the more important trust companies for the years 1909 and 1919.

## CONCLUSION NO. 2.

Notwithstanding the greater earning power, stability and safety of mortgage loans as investments, the insurance companies and the banking institutions, with the exception of the savings banks, have invested, generally, the greater portion of their resources in bonds and stocks.

*Summary of Statistics in Support of Conclusion No. 2.*—This conclusion is substantiated by the facts summarized in Exhibits “B,” “C,” “D,” “E,” “F,” “H,” “I” and “K.”

The ratios of investments in bonds and stocks and in mortgage loans to the total resources of the insurance companies and the

banking institutions, respectively, together with the averages for the entire period, as reflected particularly by Exhibits "C" and "D" are summarized below:

GROUP	YEAR 1906		YEAR 1919		AVERAGE FOURTEEN YEARS 1906 TO 1919 (INCLUSIVE)	
	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans
<b>INSURANCE COMPANIES</b>						
Life:						
New York State.....	57.75	20.44	59.60	21.50	55.46	23.26
Other States.....	39.60	38.80	44.01	37.31	38.15	40.57
Fire and Marine:						
New York State.....	74.89	3.09	78.48	1.52	77.39	2.69
Other States.....	64.77	10.51	70.50	5.60	69.76	8.30
Casualty:						
New York State.....	67.18	0.47	71.17	0.42	69.77	1.13
Other States.....	70.74	7.22	68.16	5.04	64.06	8.30
<b>BANKING INSTITUTIONS</b>						
Savings Banks.....	44.77	46.97	44.01	47.62	41.01	50.29
Banks of deposit and discount....	5.82	1.21	18.85	1.08	13.49	1.39
Trust companies.....	22.87	6.80	23.25	2.90	23.62	4.43

With few exceptions, the percentages for the intermediate years not shown in the foregoing tabulation, but incorporated in the several Exhibits, appear to be fairly consistent. It is patent from a perusal of the figures, however, that while the investments of the life insurance companies and the savings banks have been fairly uniform and constant during the period, the fire and marine and the casualty insurance companies and the trust companies have reduced gradually the proportion of their available resources invested in mortgage loans and at the same time have increased the proportion invested in bonds and stocks.

*Insurance Companies.*—The investments in bonds and stocks and in mortgage loans of the companies included in the compilation of Exhibit "B" at the close of the years stated, were in the following proportions:

GROUP	YEAR 1906		YEAR 1912		YEAR 1919	
	Bonds and stocks	Mortgage loans	Bonds and stocks	Mortgage loans	Bonds and stocks	Mortgage loans
<b>LIFE INSURANCE COMPANIES</b>						
New York State.....	70.71	29.29	68.72	31.28	73.76	26.24
Other States.....	55.82	44.18	58.37	41.63	63.46	36.54
Combined.....	65.60	34.40	64.80	35.20	69.27	30.73
<b>FIRE AND MARINE INSURANCE COMPANIES</b>						
New York State.....	94.53	5.47	95.30	4.70	96.98	3.02
Other States.....	79.25	20.75	86.44	13.56	91.05	8.95
Combined.....	86.55	13.45	90.53	9.47	93.76	6.24
<b>CASUALTY INSURANCE COMPANIES</b>						
New York State.....	99.02	0.98	96.21	3.79	98.91	1.09
Other States.....	12.79	87.21	74.11	25.89	82.00	18.00
Combined.....	81.14	18.86	81.31	10.69	94.13	5.87
<b>ALL COMPANIES.....</b>	<b>66.97</b>	<b>33.03</b>	<b>67.13</b>	<b>32.87</b>	<b>72.05</b>	<b>27.95</b>

From the foregoing it is obvious that a gradual decrease in the aggregate of funds invested in mortgage loans and a corresponding increase of investments in bonds and stocks has taken place between the years 1906 and 1919 (both inclusive). This applies particularly to the casualty insurance companies. It should not be overlooked, however, that as reflected in Exhibit "B" the investments in stocks have shown a tendency to decrease from 7.79 per cent to 4 per cent and that the investments in bonds have increased from 59.18 per cent to 68.05 per cent during the period stated, the increase being attributable, as explained in the comments relative to Conclusion No. 4 to investments in United States Government Bonds, which increased from .25 per cent in 1906 to 16.51 per cent in 1919 for all of the companies combined.

A study of the ratios for the fourteen years covered by the statistics as shown in Schedule "A," Part I of Exhibit "K," in conjunction with the ratios shown in Exhibits "C" and "S," shows that all classes of insurance companies have increased their investments in United States Government Bonds and with the exception of the fire and marine insurance companies of New York State have decreased their investments in other bonds and

stocks while their investments in mortgage loans have remained practically stationary during the period stated.

For convenience, a comparison of the relative investments as at December 31, 1906 and 1919 has been prepared and is submitted below:

INVESTMENTS BY GROUPS OF COMPANIES	Dec. 31, 1906	Dec. 31, 1919	Increase or decrease
<b>LIFE INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate.....	6.67	2.46	*4.21
Mortgage loans.....	20.44	21.50	1.06
United States bonds.....	.10	11.27	11.17
All other bonds.....	51.28	46.92	*4.36
Stocks.....	6.37	1.41	*4.96
Collateral loans.....	1.59	.02	*1.57
Cash.....	2.19	1.32	*.87
Other assets.....	11.36	15.10	3.74
Total.....	100.00	100.00	
<b>LIFE INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate.....	4.54	1.90	*2.64
Mortgage loans.....	38.80	37.31	*1.49
United States bonds.....	.08	11.75	11.67
All other bonds.....	37.55	31.51	*6.04
Stocks.....	1.97	.74	*1.23
Collateral loans.....	2.18	.52	*1.66
Cash.....	2.55	1.18	*1.37
Other assets.....	12.33	15.09	2.76
Total.....	100.00	100.00	
<b>FIRE AND MARINE INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate.....	6.62	1.70	*4.92
Mortgage loans.....	3.09	1.52	*1.57
United States Bonds.....	2.10	15.05	12.95
All other bonds.....	29.25	30.87	1.62
Stocks.....	48.54	32.56	*15.98
Collateral loans.....	.53	.18	*.35
Cash.....	6.04	8.16	2.12
Other assets.....	8.83	9.96	1.13
Total.....	100.00	100.00	
<b>FIRE AND MARINE INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate.....	4.41	2.19	*2.21
Mortgage loans.....	10.51	5.60	*4.91
United States bonds.....	.42	18.80	18.38
All other bonds.....	49.42	41.26	*8.16
Stocks.....	14.93	10.44	*4.49
Collateral loans.....	1.38	.28	*1.10
Cash.....	7.94	8.96	1.02
Other Assets.....	10.99	12.56	1.57
Total.....	100.00	100.00	

\* Decrease

INVESTMENTS BY GROUPS OF COMPANIES	Dec. 31, 1906	Dec. 31, 1919	Increase or decrease
<b>CASUALTY INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate .....	16.99	5.47	*11.52
Mortgage loans .....	.47	.42	*.05
United States bonds .....	4.64	27.02	22.38
All other bonds .....	42.61	32.83	*9.78
Stocks .....	19.93	11.32	*8.61
Collateral loans .....	.70	.03	*.67
Cash .....	6.54	8.84	2.30
Other assets .....	8.12	14.07	5.95
Total .....	100.00	100.00	
<b>CASUALTY INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate .....	5.31	2.50	*2.81
Mortgage loans .....	7.22	5.04	*2.18
United States bonds .....	1.34	25.28	23.94
All other bonds .....	57.03	35.70	*21.33
Stocks .....	12.37	7.18	*5.19
Collateral loans .....	.60	.96	.36
Cash .....	7.96	8.87	.91
Other assets .....	8.17	14.47	6.30
Total .....	100.00	100.00	

\* Decrease

While the above tabulation indicates that the companies have increased in the aggregate their investments in United States Bonds, the detailed schedules of Part I of Exhibit "K" show that certain of the companies have increased, as a matter of fact, their relative investments in stocks. Such of the companies as have increased their investments in stocks during the period covered are the following:

NAME OF COMPANY	Year 1906	Year 1919	Increase
<b>FIRE AND MARINE INSURANCE COMPANIES NEW YORK STATE</b>			
Glens Falls.....	11.79	20.38	8.59
Hanover Fire.....	35.76	36.59	.83
North River.....	5.67	66.18	60.51
United States Fire.....	19.66	63.15	43.49
<b>FIRE AND MARINE INSURANCE COMPANIES OF OTHER STATES</b>			
American.....	12.86	27.77	14.91
Franklin.....	.36	6.83	6.47
Hartford.....	10.82	11.60	.78
Insurance Co. of North America.....	6.77	9.79	3.02
Milwaukee Mechanics.....	2.79	4.12	1.33
Pennsylvania.....	1.81	4.90	3.09
<b>CASUALTY INSURANCE COMPANIES OF NEW YORK STATE</b>			
American Credit Indemnity.....	.....	13.84	13.84
Globe Indemnity.....	.....	8.51	8.51
National Surety.....	16.52	18.63	2.11
New Amsterdam Casualty.....	6.95	18.29	11.34
<b>CASUALTY INSURANCE COMPANIES OF OTHER STATES</b>			
Fidelity and Deposit.....	17.35	28.38	11.03
North American Accident.....	.....	3.63	3.63

In connection with the above it should be noted, however, that not one of the companies listed appears to have reduced its investments in United States Government Bonds during the period, which is true also of all other companies included in Exhibit "K."

*Banking Institutions.*—In the case of savings banks, shown on Schedule "B" of Exhibit "D," it appears that the ratio of their total resources invested in mortgage loans has been fairly constant during the fourteen years from 1906 to 1919, rising slightly during that period from 46.9 per cent to 47.8 per cent. The investments of savings banks in bonds and stocks have remained practically stationary during the same period, i. e., 44.8 per cent in 1906 and 44.2 per cent in 1919.

Schedule "C" of the same Exhibit shows the division of the investments of the State banks of New York (banks of deposit and discount) for the same period. The investments in mortgage

loans during the period appear to have been trifling, but fairly constant. Increases are noted in the ratios of total assets invested in bonds and stocks of a public character and in bonds and stocks of private corporations — on the former from .79 per cent in 1908 to 12.01 per cent in 1919, and on the latter from 6.50 per cent in 1908 to 6.84 per cent in 1919.

In the case of trust companies, shown in Schedule "D" of Exhibit "D," it appears that the proportion of their total resources invested in mortgage loans decreased from 6.8 per cent in 1906 to 2.9 per cent in 1919. The investments in bonds and stocks of a public character were increased from 5 per cent in 1908 to 12.9 per cent in 1919, while their investments in bonds and stocks of private corporations were decreased from 20.6 per cent in 1908 to 10.4 per cent in 1919.

In Exhibit "F" there is summarized information of a miscellaneous character relative to the savings banks of New York State prepared from data submitted by the New York State Banking Department. Schedule "A" of that exhibit indicates that in every instance the percentage of income earned on investments in mortgage loans is greater than that earned on bonds and stocks, the rate of income earned by all of the savings banks combined on their aggregate investments in mortgage loans exceeding that earned on bonds and stocks by over 1 per cent.

Reference to Schedule "B" of Exhibit "F" shows the aggregate amount of funds invested by the savings banks of New York State during the period from June 1, 1917 to July 1, 1920 in certain classes of investments. The funds of all banks combined have been invested during this period in the following proportions:

CLASSES OF INVESTMENTS	Amount	Per cent.
United States government bonds.....	\$499,988,325	55.05
Railroad bonds.....	36,130,652	3.98
State, city and other bonds.....	48,807,016	5.37
Call loans.....	22,365,277	2.46
Bankers' Acceptances.....	34,997,136	3.86
Mortgage Loans.....	265,970,048	29.28
Total.....	\$908,258,454	100.00



**CONCLUSION NO. 3.**

There has been a general tendency on the part of both the Life Insurance Companies and the banking institutions, in the years from 1915 to 1919 to decrease the proportion of their resources invested in mortgage loans and to correspondingly increase their investments in bonds and stocks.

*Summary of Statistics in Support of Conclusion No. 3.*— The data substantiating this conclusion in respect to the insurance companies and banking institutions are summarized, respectively in Exhibits "C" and "D": The figures are also presented in graphic form in Exhibits "H" and "I."

A comparison of the percentages of investments in mortgage loans and in bonds and stocks to the total resources of the several classes of insurance companies and banking institutions, as reflected in Exhibits "C" and "D" at December 31, 1914 and 1919, respectively, is set forth below:

GROUP	DECEMBER 31, 1914		DECEMBER 31, 1919		INCREASE OR DECREASE	
	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks	Mort- gage loans	Bonds and stocks
<b>INSURANCE COMPANIES</b>						
Life:						
New York State.....	25.14	52.48	21.50	59.60	*3.64	7.12
Other states.....	42.28	34.26	37.31	44.00	*4.97	9.74
Fire and Marine:						
New York State.....	2.57	78.15	1.52	78.48	*1.05	0.33
Other states.....	8.89	71.02	5.60	70.50	*3.29	0.52
Casualty:						
New York State.....	1.65	68.28	0.42	71.17	*1.23	2.89
Other states.....	10.51	59.83	5.04	68.16	*5.47	8.33
<b>BANKING INSTITUTIONS</b>						
Savings banks.....	53.20	37.70	47.80	44.20	*5.40	6.50
Banks of deposit and discount....	1.69	13.27	1.08	18.85	*0.61	5.58
Trust companies.....	5.90	25.20	2.90	23.30	*3.00	*1.90

\* Decrease.

The foregoing table indicates that in every instance the insurance companies and the banking institutions have decreased the proportion of their investments in mortgage loans and with the exception of the fire and marine insurance companies of other

states and that the trust companies all have increased the proportion of their investments in bonds and stocks during the period shown.

#### CONCLUSION NO. 4.

The increase in the ratio of investments of insurance companies in United States Bonds during the period of the war, when these investments were necessary, were apparently made largely at the expense of their investments in mortgage loans, but in exceptional instances there was simultaneously a decrease in the investments in other bonds and stocks.

*Summary of Statistics in Support of Conclusion No. 4.*—The data presented in Exhibit "S" in conjunction with that shown in Exhibits "C" and "K" support this conclusion.

A comparison of the relative investments of insurance companies as at December 31, 1914 and 1919 as reflected by the Exhibits mentioned, has been prepared and is submitted below:

INVESTMENT BY GROUPS OF COMPANIES	December 31, 1914	December 31, 1919	Increase or decrease
<b>LIFE INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate.....	3.39	2.46	.93*
Mortgage loans.....	25.14	21.50	3.64*
United States bonds.....		11.27	11.27
All other bonds.....	50.46	46.92	3.54*
Stocks.....	2.02	1.41	.61*
Collateral loans.....	.01	.02	.01
Cash.....	1.36	1.32	.04*
Other assets.....	17.62	15.10	2.52*
Total.....	100.00	100.00	
<b>LIFE INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate.....	3.06	1.90	1.16*
Mortgage loans.....	42.28	37.31	4.97*
United States bonds.....	.06	11.75	11.69
All other bonds.....	32.49	31.51	.98*
Stocks.....	1.71	.74	.97*
Collateral loans.....	.65	.52	.13*
Cash.....	2.30	1.18	1.12*
Other assets.....	17.45	15.09	2.36*
Total.....	100.00	100.00	

\* Decrease.

INVESTMENT BY GROUPS OF COMPANIES	December 31, 1914	December 31, 1919	Increase or decrease
<b>FIRE AND MARINE INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate.....	3.93	1.70	2.23*
Mortgage loans.....	2.57	1.52	1.05*
United States bonds.....	.56	15.05	14.49
All other bonds.....	38.44	30.87	7.57*
Stocks.....	39.15	32.56	6.59*
Collateral loans.....	.19	.18	.01*
Cash.....	7.19	8.16	.97
Other assets.....	7.97	9.96	1.99
Total.....	100.00	100.00	
<b>FIRE AND MARINE INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate.....	3.16	2.10	1.06*
Mortgage loans.....	8.89	5.60	3.29*
United States bonds.....	.17	18.80	18.63
All other bonds.....	55.44	41.28	14.18*
Stocks.....	15.41	10.44	4.97*
Collateral loans.....	.52	.28	.24*
Cash.....	6.54	8.96	2.42
Other assets.....	9.87	12.56	2.69
Total.....	100.00	100.00	
<b>CASUALTY INSURANCE COMPANIES OF NEW YORK STATE</b>			
Real estate.....	9.67	5.47	4.20*
Mortgage loans.....	1.65	.42	1.23*
United States bonds.....	1.35	27.02	25.67
All other bonds.....	45.10	32.83	12.27*
Stocks.....	21.83	11.32	10.51*
Collateral loans.....	.12	.03	.09*
Cash.....	7.97	8.84	.87
Other assets.....	12.31	14.07	1.76
Total.....	100.00	100.00	
<b>CASUALTY INSURANCE COMPANIES OF OTHER STATES</b>			
Real estate.....	5.22	2.50	2.72*
Mortgage loans.....	10.51	5.04	5.47*
United States bonds.....	.61	25.28	24.67
All other bonds.....	46.93	35.70	11.23*
Stocks.....	12.29	7.18	5.11*
Collateral loans.....	1.99	.96	1.03*
Cash.....	9.18	8.87	.31*
Other assets.....	13.27	14.47	1.20
Total.....	100.00	100.00	

\* Decrease.

The foregoing table indicates that the increase in the investments of the insurance companies in United States Bonds during the five years ended December 31, 1919, resulted in a reduction of their investments in mortgage loans.

Between the close of the years 1914 and 1919 as shown by Exhibit "S" the investments of the life insurance companies of New York State in United States Government Securities in relation to the total invested assets increased 13.28 per cent offset by a relative decrease in other investments, as follows:

	Per cent
Bonds and stocks (not including United States bonds).....	6.76
Mortgage loans.....	5.17
Real estate.....	1.24
Cash.....	.11
Total.....	13.28

### CONCLUSION NO. 5.

**The insurance companies of other states of all classes, have invested, on the average, a far greater portion of their available resources in mortgage loans than have the companies of New York State.**

*Summary of Statistics in Support of Conclusion No. 5.*— The facts in support of this conclusion are shown in Exhibit "W". The statistics comprised in this Exhibit show that while the life insurance companies of other states have invested 50.4 per cent of their resources in mortgage loans and 2.83 per cent in United States Bonds, the life insurance companies of New York State have invested only 29.04 per cent in mortgage loans and 2.4 per cent in United States Bonds.

With reference to the fire and marine insurance companies those of other states have invested 9.4 per cent in mortgage loans as compared with 3.01 per cent invested by the companies of New York State. The casualty insurance companies of other states have invested 10.08 per cent in mortgage loans in contrast to 1.42 per cent invested by the casualty insurance companies of New York State.

**CONCLUSION NO. 6.**

**The life insurance companies of New York State have invested proportionately more in mortgage loans in other states, in relation to the insurance that they have outstanding in these states than the insurance companies of other states have invested in mortgage loans in New York State in relation to the insurance that the latter have outstanding in the State of New York.**

*Summary of Statistics in Support of Conclusion No. 6.*— This important conclusion is supported by Exhibit "M".

From a study of this exhibit it would appear that while the life Insurance Companies of New York State have invested in mortgage loans in other States to the extent of 1.68 per cent of the total insurance that these companies have outstanding in other States, the life insurance companies of other States have invested in mortgage loans in New York State only to the extent of .86 per cent of the insurance outstanding in New York State, or practically one-half the proportion shown by the New York State companies. Concerning this comparison, however, the fact should not be overlooked that the life insurance companies of other States have invested relatively less in mortgage loans in their own States other than New York than the life insurance companies of New York State have invested in New York, the percentages being 7.75 and 18.92 respectively.

With the foregoing in mind it is only fair to suggest that the life insurance companies of other States should be required to invest in mortgage loans in New York State to an amount at least equivalent to the proportion of the investments of the New York State companies in mortgage loans of other States, in relation to the insurance outstanding therein.

In the compilation of the statistics presented in Exhibit "M", all of the life insurance companies doing business in the State of New York were taken into consideration.

At December 31, 1919, these statistics reveal that the life insurance companies of other States had outstanding \$2,884,216,000 of insurance in New York State and the total invested by these companies in mortgage loans in New York State was \$24,789,000. From a scrutiny of Schedule "B" of Exhibit "M" it will be noted that only eleven of the companies out of the twenty-three had invested their funds in mortgage loans in New York State at the end of the year 1919 while ten of the fourteen life insurance

companies of New York State had invested in mortgage loans in other States. Of the four New York State companies that had no investments in mortgage loans in other States two are comparatively small and had, as a matter of fact, no investment in mortgage loans even in New York State. Excepting the two small companies referred to, the Farmers and Traders Life Insurance Company and the Niagara Life Insurance Company are the only life insurance companies of New York State that do not appear to have had investments in mortgage loans in other States at the close of the year 1919.

The amount invested by the life insurance companies of other States in mortgage loans in New York State, with practically no exception, is negligible in proportion to the amount of their corresponding investments in other States, presumably their home States. If the percentage of the investment which the New York State companies have in mortgage loans in other States in relation to the insurance outstanding in other States at December 31, 1919, *i. e.*, 1.68 per cent is applied to the insurance which the companies of other States have outstanding in New York State, the result would be \$48,455,000. This indicates the approximate sum that the life insurance companies of other States might be required to invest in mortgage loans in New York State and exceeds by \$23,666,000 the investment of those companies at the date stated.

### CONCLUSION NO. 7.

**Some insurance companies have invested in mortgage loans a smaller proportion of their resources than the average shown by all of the companies combined; the investments of some of the fire and marine and the casualty companies in particular, being considerably less than the average.**

*Summary of Statistics in Support of Conclusion No. 7.*—There is submitted below a list of the insurance companies that have invested less than the average in mortgage loans, eliminating, however, such companies as have no investment whatever in mortgage loans and may be acting in accordance with their individual charters. It will be noted that the companies are shown in the order of the ratios of their investment in mortgage loans, beginning with the company having the lowest ratio:

## LIFE INSURANCE COMPANIES

NEW YORK STATE		OTHER STATES	
(Average Ratio All Companies .2151)		(Average Ratio All Companies .3731)	
Postal .....	.0957	Union Mutual .....	.0397
Mutual .....	.1510	Columbian National .....	.1202
New York .....	.1663	New England Mutual .....	.1797
Equitable .....	.1711	Provident Life and Trust..	.2233
Niagara .....	.1733	Prudential .....	.2237
Home .....	.1894	Berkshire .....	.2487
		State Mutual .....	.3103
		Massachusetts Mutual .....	.3265
		Travelers .....	.3579
		Fidelity Mutual .....	.3623
		Penn Mutual .....	.3696

## FIRE AND MARINE INSURANCE COMPANIES

NEW YORK STATE		OTHER STATES	
(Average Ratio All Companies .0152)		(Average Ratio All Companies .0560)	
Home .....	.0001	Franklin .....	.0007
Great American .....	.0007	New Hampshire .....	.0007
Continental .....	.0031	Pennsylvania .....	.0023
Queen .....	.0035	Federal .....	.0044
Fidelity-Phenix .....	.0051	Ins. Co. of North America..	.0048
Globe and Rutgers .....	.0081	Phoenix .....	.0053
Westchester .....	.0102	Hartford Fire .....	.0092
		Boston .....	.0196
		National Union .....	.0400
		Automobile Insurance Co..	.0402
		Connecticut Fire .....	.0431

## CASUALTY INSURANCE COMPANIES

NEW YORK STATE		OTHER STATES	
(Average Ratio All Companies .0043)		(Average Ratio All Companies .0504)	
National Surety .....	.0032	Massachusetts Bonding and Insurance .....	.0007
		Fidelity and Deposit .....	.0008
		United States Fidelity and Guaranty .....	.0018
		Manufacturers Liability....	.0068
		Hartford Accident and Indemnity .....	.0199
		Standard Accident .....	.0303

The foregoing tabulation is instructive to the extent that it is indicative of the possible divergence in the investment policy of each group of insurance companies. It indicates also that the ratio of investments of the fire and marine and the casualty insurance companies in mortgage loans at December 31, 1919, was considerably less than the ratio of investments of the life insurance companies. By reference to Schedule "C" of Exhibit "O" it will be observed that the investments in mortgage loans of the casualty insurance companies of New York State is practically negligible, being .43 per cent or slightly under one-half of one per cent.

**CONCLUSION NO. 8.**

Several life insurance companies have invested a greater ratio of their available resources in stocks than the average shown by the life insurance companies as a group.

*Summary of Statistics in Support of Conclusion No. 8.*—Reference is made to Exhibit "P" for the facts bearing out this conclusion.

Schedule "A" of this exhibit summarizes the grand totals of the stock investments as of December 31, 1919, of all the life insurance companies doing business in the State of New York and shows for each company the ratios of the book, par and market values and the cost to the total admitted assets. The average ratios for all of the companies of New York State and those of other states, together with the two groups combined, are also shown. It should be pointed out, however, that, for the purpose of computing the average ratios, the admitted assets of such companies as had no investments in stocks are not included in the grand total of admitted assets. Of the 37 companies included in the compilation 9 are carrying stock investments in excess of 2 per cent of their total admitted assets, compared with the average for all companies of 1.31 per cent and 1.38 per cent on book value and cost, respectively.

The companies are:

NAME OF COMPANY	State in which organized	Per cent of book value	Per cent of cost
Union Mutual Life Insurance Co.....	Maine.....	11.05	11.13
Aetna Life Insurance Co.....	Connecticut...	6.47	5.97
Travelers Insurance Co.....	Connecticut...	4.08	4.08
Mutual Life Insurance Co.....	New York....	3.54	3.54
Niagara Life Insurance Co.....	New York....	3.51	3.51
Home Life Insurance Co.....	New York....	3.36	3.37
Equitable Life Assurance Society of the United States.....	New York....	2.57	2.94
New England Mutual Life Insurance Co.....	Mass.....	2.51	2.92
State Mutual Life Assurance Co.....	Mass.....	2.03	2.78

The companies that do not appear to have had investments in stocks as at December 31, 1919, are the following:



	State in which organized
Farmers & Traders Life Insurance Co.....	New York
Morris Plan Insurance Society.....	New York
Postal Life Insurance Co.....	New York
Teachers Insurance and Annuity Association of America.....	New York
United States Life Insurance Co. in the City of New York.....	New York
Bankers Life Co.....	Iowa
Colonial Life Insurance Company of America.....	N. J.
Maryland Assurance Corporation.....	Maryland
National Life Insurance Co.....	Vermont
Provident Life & Trust Company of Philadelphia.....	Pa.
Union Central Life Insurance Co.....	Ohio

The following is a schedule showing the detail of stocks acquired by some of the companies since 1906:

## LIFE INSURANCE COMPANIES OF NEW YORK STATE SCHEDULE SHOWING STOCKS ACQUIRED AFTER THE YEAR 1906

COMPANY	Description of stock	Par value	Year	As result of	ON HAND DECEMBER 31, 1919 AS PER EXHIBIT "F," SCHEDULE "B"	
					Par value	Remarks
EQUITABLE GUARDIAN	Atchafon, Tonoka & Santa Fe R. R., Common ..	\$1,718,000	1917	Conversion of bonds .....	\$1,718,000	
	Cincinnati, Indianapolis & Western R. R.: Preferred .....	90,000	1918	Reorganization .....	90,000	
	Common .....	90,000	1918	Reorganization .....	90,000	
	Wells, Fargo & Co. ....	5,000	1913	Dividend from American Express Co. ....	5,000	On hand 1906 \$50,000 Sold 1911 20,000
HOME	American Telephone & Telegraph Co. ....	40,000	1909	Exchange for New York & New Jersey Tele- phone Co. Stk. ....	70,000	\$30,000
	Cincinnati, Indianapolis & Western R. R.: Preferred .....	60,000	1916	Reorganization .....	60,000	
	Common .....	60,000	1916	Reorganization .....	60,000	
	Chicago Great Western R. R., Common ..	234,300	1909	Reorganization .....	234,300	
METROPOLITAN	Cincinnati, Indianapolis & Western R. R.: Common .....	873,000	1916	Reorganization .....	873,000	
	Preferred .....	873,000	1916	Reorganization .....	873,000	
	Detroit, Toledo & Ironton R. R.: Common .....	193,050	1914	Reorganization .....	193,050	
	Preferred .....	193,050	1914	Reorganization .....	193,050	
	Pittsburgh & West Virginia Ry.: Common .....	2,478,000	1917	Reorganization .....	2,478,000	
	Preferred .....	743,400	1917	Reorganization .....	743,400	
	Third Ave. Ry. Co., New York City Western Pacific R. R. Corporation:	10,000	1912	Reorganization .....	10,000	
	Common .....	1,725,200	1916	Reorganization .....	1,725,200	
	Preferred .....	998,800	1916	Reorganization .....	998,800	
	Wheeling & Lake Erie Ry., Preferred ..	420,170	1916	Reorganization .....	420,170	
MUTUAL	Central Union Trust Co., N. Y. ....	11,700	1918	Stock Dividend .....	25,700	On hand 1906 \$14,000 On hand 1906 \$435,000 Sold 1919 20,000
	Delaware, Lackawanna & Western R. R. ....	65,250	1909	Stock Dividend .....	430,250	
						\$415,000

LIFE INSURANCE COMPANIES OF NEW YORK STATE SCHEDULE SHOWING STOCKS ACQUIRED AFTER THE YEAR 1906  
—Concluded

COMPANY	Description of stock	Par value	Year	As result of	ON HAND DECEMBER 31, 1919 AS PER EXHIBIT "P," SCHEDULE "B"	
					Par value	Remarks
NEW YORK NIAGARA	Bank of California.....	\$500,000	1910	Stock Dividend.....	\$665,000	On hand 1 1906, \$500,000 Sold 1911 \$50,000 1916 50,000 1917 75,000 1919 160,000 335,000 \$165,000
	Delaware, Lackawanna & Western Coal Co.....	75,000	1909	Segregation from Del. Lackawanna & Western R. R.....	75,000	
	Third Ave. Ry. Co., New York City.....	662,500	1912	Reorganization.....	662,500	
	Wabash Railroad Co., New York City.....	2,500	1913	Reorganization.....	2,500	
	Profit Sharing Preferred "A".....	10,900	1915	Reorganization.....	10,900	
	Convertible Preferred "B".....	12,000	1915	Reorganization.....	12,000	
	Common.....	10,200	1915	Reorganization.....	10,200	
	Pere Marquette R. R. Preferred Stock Off.....	11,040	1917	Reorganization.....	11,040	

## CONCLUSION NO. 9.

The exceptionally low rate of income earned by some of the fire and marine insurance companies on their investments in bonds and stocks, is partly due to extraordinary losses, particularly in the year 1919, that were incurred in the disposition through sale or otherwise of railroad, public utility and other securities of an apparently unstable or doubtful investment value.

*Summary of Statistics in Support of Conclusion No. 9.*—Exhibit "Q" gives the details in support of this conclusion.

In the preparation of Exhibit "Q" there were considered only such fire and marine insurance companies as showed either a loss on their investments in bonds and stocks for the year 1919 or earnings thereof for that year at a rate lower than four per cent. Thirteen companies of New York State and eight companies of other states are comprised in the tabulation. A scrutiny of the several schedules of the Exhibit is of interest as it indicates that the greater portion of the losses were incurred, no doubt, in the disposition through sale or otherwise of railroad and public utility securities during the period of extensive liquidation that occurred throughout the greater part of the year 1919. The companies that lost most heavily are listed hereunder:

## COMPANIES OF NEW YORK STATE

Net loss for  
the year 1919

Globe & Rutgers Fire Insurance Co.....	\$1,747,312
Great American Insurance Co.....	1,425,925
Home Insurance Co.....	2,581,488
Westchester Fire Insurance Co.....	830,693

## COMPANIES OF OTHER STATES

Hartford Fire Insurance Co.....	\$631,385
St. Paul Fire & Marine Insurance Co.....	596,526

In connection with the foregoing it should be noted that of the companies shown only one had earnings for the year 1919 on its investments in bonds and stocks in excess of the losses incurred through the disposition of securities.

Of the New York State companies, it is observed that six companies earned a very low rate of income on their investments in bonds and stocks, after taking losses into consideration, namely:

<i>Company</i>	<i>Rate of Income</i>
Agricultural Ins. Co.....	2.60 per cent
American Eagle Fire Ins. Co.....	3.22 per cent

<i>Company</i>	<i>Rate of Income</i>
Glens Falls Ins. Co.....	3.97 per cent
International Ins. Co.....	1.28 per cent
National Liberty Ins. Co.....	1.09 per cent
North River Ins. Co.....	1.84 per cent

The remaining seven companies actually suffered losses on realization in excess of the income derived from all of their investments in bonds and stocks, viz.:

<i>COMPANY</i>	<i>Rate of loss per cent</i>
Globe & Rutgers Fire Insurance Co.....	1.28
Great American Insurance Co.....	0.41
Hanover Fire Insurance Co.....	2.07
Home Insurance Co.....	0.51
Niagara Fire Insurance Co.....	0.18
United States Fire Insurance Co.....	*
Westchester Fire Insurance Co.....	5.87

\* Less than one-hundredth of 1 %.

Insofar as the companies of other states are concerned only one company, the St. Paul Fire and Marine, sustained a net loss. They had a larger proportion of mortgage loans and less speculative securities.

Since the above statistics with respect to the losses of Fire Insurance Companies were compiled, further additional schedules have been prepared showing the investments of the larger Fire Insurance Companies including the Continental Fire Insurance Company and the Eagle-Phoenix Fire Insurance Company for the year 1920. These statistics show additional losses on the sales of securities for the year 1920 as follows:

Net Losses on Securities as of December 31, 1920, for Five Years (after crediting profits on securities sold during that period).

NAME OF COMPANY	Net losses on stock sold in 1920	Losses shown on retained stock	Total net loss and net decrease	Ratio of loss to cost
				<i>Per cent</i>
Home Insurance Co.....	\$3,562,229 00	\$1,256,781 00	\$4,819,011 00	16.08
Continental Ins. Co.....	1,065,827 00	1,753,745 00	2,819,572 00	7.53
American Eagle-Phenix Ins. Co.....	298,088 00	271,010 00	569,098 00	12.43
Fidelity-Phenix Fire Ins. Co.....	92,562 00	1,670,786 00	1,763,348 00	7.72
Fidelity & Casualty Co. of N. Y.....	*99,549 00	1,542,957 00	1,461,263 00	28.58
Globe Indemnity Co.....	45,550 00	105,546 00	151,096 00	16.65
United States Casualty Co.	*618 00	702,955 00	702,337 00	38.49
American Surety Co.....	385,885 00	58,268 00	444,154 00	14.02
National Surety Co.....	906,058 00	168,525 00	1,074,583 00	17.61
New Amsterdam Casualty Co.....	16,055 00	176,606 00	192,061 00	16.73
Preferred Accident Ins. Co.....	202,579 00	210,760 00	413,340 00	13.90

\* Profit.

**CONCLUSION NO. 10.**

The fire, marine and casualty insurance companies, particularly the latter have invested as a rule a mere fraction of their resources in mortgage loans as compared with the life insurance companies and savings banks.

*Summary of Statistics in Support of Conclusion No. 10.*— In Exhibits "B", "C", "D" and "H" may be found the information to substantiate this conclusion.

In order to facilitate a comparison of the figures shown in Exhibit "C" and Exhibit "D" a table setting forth the percentages of the total assets invested in mortgage loans by the several classes of insurance companies and banking institutions as at December 31, 1906, 1912 and 1919, respectively, has been prepared, as follows:

GROUP	December 31, 1906	December 31, 1912	December 31, 1919
<b>INSURANCE COMPANIES</b>			
Life:			
New York state.....	20.44	24.97	21.50
Other states.....	38.80	41.81	37.31
Fire and Marine:			
New York state.....	3.09	3.22	1.52
Other states.....	10.51	9.13	5.60
Casualty:			
New York state.....	0.47	2.14	0.42
Other states.....	7.22	9.41	5.04
<b>BANKING INSTITUTIONS</b>			
Savings banks.....	46.90	50.90	47.80
Banks of deposit and discount.....	1.21	1.47	1.08
Trust companies.....	6.80	5.70	2.90

In considering this table attention should be drawn to the fact that the same general conditions shown above are reflected for all of the intermediate years for the various classes of insurance companies and banking institutions, in the several Schedules of Exhibits "C" and "D." Moreover, the same general results are also reflected in Exhibit "B" wherein is shown the trend of business in subdivisions of investments of only a portion of the insurance companies of each class, and in Exhibit "H" in which the condition is set forth in graphic form.

### CONCLUSION NO. 11.

**There has been a general tendency on the part of the fire, marine and casualty insurance companies to decrease the ratio of their investments in mortgage loans.**

*Summary of Statistics in Support of Conclusion No. 11.*—The basis for this conclusion is found in the statistics shown in Exhibit "C".

Reference to the table of percentages shown in the comments dealing with Conclusion No. 10 shows that the several classes of fire and marine and casualty insurance companies have decreased their relative investments in mortgage loans during the 14 years from 1906 to 1919 as shown below:

GROUP	December 31, 1906	December 31, 1919	Decrease
<b>FIRE AND MARINE INSURANCE COMPANIES</b>			
New York state.....	3.09	1.52	1.57
Other states.....	10.51	5.60	4.91
<b>CASUALTY INSURANCE COMPANIES</b>			
New York state.....	0.47	0.42	0.05
Other states.....	7.22	5.04	2.18

As in the case of Conclusion No. 10 the same general results are disclosed in the several Schedules of Exhibit "B" that refer to the fire and marine and the casualty insurance companies, that is, Schedules "D," "E," "F," and "G" of that Exhibit.

### CONCLUSION NO. 12.

The ratio of the total resources of the savings banks invested in mortgage loans has on the whole been most satisfactory and fairly constant; it increased slightly during the nine years from 1906 to 1914; but, since then, the tendency has been to decrease the ratio of these investments, the decrease being more than offset, however, by the increased ratio of investments in United States securities which has not been at the expense of mortgage loans as with some of the life insurance companies.

#### *Summary of Statistics in Support of Conclusion No. 12.—*

The facts substantiating this conclusion appear in Exhibit "L."

A study of the summary of that Exhibit, i. e., Schedule "A" is interesting. The general results reflected are set forth in the following comparison of the percentages of the various classes of investments to the total of all investments at the close of the years 1906 and 1919:



INVESTMENTS	Year 1906	Year 1919	Increase or decrease	Average for fourteen years
United States bonds.....	.60	13.74	13.14	2.22
All other bonds.....	46.09	32.71	13.38*	40.66
Total bonds.....	46.69	46.45	.24*	42.88
Mortgages.....	46.31	46.53	.22	49.55
Other investments.....	1.44	1.70	.26	1.46
Cash.....	5.56	5.32	.24*	6.11
Total.....	100.00	100.00		100.00

\* Decrease.

It will be observed from the above that the ratio of the investments of the savings banks in all classes of bonds combined was practically the same at the beginning and end of the period covered by the statistics, but that, as might be expected, the investments in United States Bonds were increased from .60 per cent to 13.74 per cent, the entire increase being slightly more than accounted for by the reduction of investments in other classes of bonds. Similarly, investments in mortgage loans, other investments, and the cash available for investments remained practically constant during the period.

These figures serve to indicate that the savings banks maintained the ratio of their investments in mortgage loans throughout the period — although it is to be noted that in the year 1914 the investments in mortgage loans were equivalent to 51.85 per cent. of the total investments — and that whatever funds the savings banks were obliged to invest in United States Government Securities during the period of the war were diverted from funds which otherwise would have been available for investments in other bonds. This is in marked contrast to the apparent policy of some of the insurance companies, particularly the Fire and Marine and the Casualty Companies.

In passing, it should be noted, as previously stated, that the rate of income earned by the savings banks on mortgage loans exceeded that earned on bonds and stocks by over 1 per cent which is no doubt one of the reasons, if not indeed the principal one, why savings banks have invested a greater portion of their resources in mortgage loans than in bonds and stocks.

A careful examination of the several detailed Schedules, "B" to "C" inclusive of Exhibit "L" wherein are given analyses of the investments by classes of all of the savings banks of New York State at the end of each year from 1906 to 1919, both inclusive, reveals that certain of the banks had invested in mortgage loans at December 31, 1919, less than 40 per cent of their total funds available for investment, one bank having had invested as low as 14.18 per cent in mortgage loans at this date. Moreover, during the period of 14 years covered by the Exhibit, a number of the banks actually reduced the proportion of their resources invested in mortgage loans and did not increase correspondingly their investments in United States Government securities. On the other hand, however, several of the banks appear to have substantially increased their relative investments in mortgage loans during the period indicated.

A tabulation has been prepared setting forth the relative percentages of the investments of the savings banks subject to the foregoing remarks, as at the close of the years 1906 and 1919. The tabulation is as follows:

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
<b>Bank for Savings, New York City:</b>						
1906.....	1.22	44.60	45.82	50.31	.44	3.43
1919.....	12.83	47.02	59.85	35.94	.38	3.83
Increase or decrease.....	11.61	2.42	14.03	14.37*	.06*	.40
<b>Binghamton Savings Bank:</b>						
1906.....		57.35	57.35	34.28	1.36	7.01
1919.....	13.88	38.49	52.37	39.91	2.59	5.13
Increase or decrease.....	13.88	18.86*	4.98*	5.63	1.23	1.88*
<b>Buffalo Savings Bank, Buffalo:</b>						
1906.....		47.05	47.05	45.90	1.10	5.95
1919.....	15.25	39.29	54.54	39.41	1.65	4.40
Increase or decrease.....	15.25	7.76*	7.49	6.49*	.55	1.55*
<b>Catskill Savings Bank, Catskill:</b>						
1906.....		69.23	69.23	26.95	.....	3.82
1919.....	27.38	41.09	68.47	23.35	.90	7.28
Increase or decrease.....	27.38	28.14*	.76*	3.60*	.90	3.46

\* Decrease.

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
<b>Citizens Savings Bank, New York City:</b>						
1906.....	6.35	44.17	50.52	39.35	.55	9.58
1919.....	20.35	33.19	53.54	38.38	.95	7.13
Increase or decrease.....	14.00	10.98*	3.02	.97*	.40	2.45*
<b>Cohoes Savings Institution:</b>						
1906.....	.....	58.19	58.19	35.55	.76	5.50
1919.....	14.17	44.48	58.65	36.54	.55	4.26
Increase or decrease.....	14.17	13.71*	.46	.99	.21*	1.24*
<b>Ellenville Savings Bank:</b>						
1906.....	.....	61.91	61.91	29.56	1.61	6.92
1919.....	19.68	57.68	77.36	14.18	2.07	6.39
Increase or decrease.....	19.68	4.23*	15.45	15.38*	.46	.53*
<b>Hudson City Savings Institution:</b>						
1906.....	.....	55.43	55.43	37.50	5.56	4.51
1919.....	2.46	51.65	54.11	38.09	.58	7.22
Increase or decrease.....	2.46	3.78*	1.32*	.59	1.98*	2.71
<b>Ithaca Savings Bank:</b>						
1906.....	8.59	64.56	73.15	16.29	1.68	8.88
1919.....	2.95	62.19	65.14	28.65	1.42	4.79
Increase or decrease.....	5.64*	2.37*	8.01*	12.36	.26*	4.09*
<b>Mechanics Savings Bank, Beacon:</b>						
1906.....	.....	58.56	58.56	32.95	2.77	5.72
1919.....	3.95	62.45	66.40	29.81	.75	3.04
Increase or decrease.....	3.95	3.89	7.84	3.14*	2.02*	2.68*
<b>Mechanics and Farmers Savings Bank, Albany:</b>						
1906.....	.....	71.89	71.89	18.46	.27	9.38
1919.....	2.29	62.40	64.69	29.16	.....	6.15
Increase or decrease.....	2.29	9.49*	7.20*	10.70	.27*	3.23*
<b>Richmond County Savings Bank, West New Brighton:</b>						
1906.....	.....	28.16	28.16	60.50	.97	10.37
1919.....	23.32	24.77	48.09	38.45	.27	13.19
Increase or decrease.....	23.32	3.39*	19.93	22.05*	.70*	2.82
<b>Rondout Savings Bank, Kingston:</b>						
1906.....	.....	45.95	45.95	47.35	.56	6.14
1919.....	28.51	22.79	51.30	39.70	.39	8.61
Increase or decrease.....	28.51	23.16*	5.35	7.65*	.17*	2.47

\* Decrease.

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
Roosevelt Savings Bank, Brooklyn:						
1906.....	.....	31.46	31.46	58.52	.....	10.02
1919.....	12.75	33.81	46.56	39.89	6.65	6.90
Increase or decrease.....	12.75	2.35	15.10	18.63*	6.65	3.12*
St. Lawrence County Savings Bank, Ogdensburg (Organized 1909):						
1909.....	.....	48.48	48.48	27.50	.....	24.02
1919.....	13.90	43.86	57.76	37.92	.28	4.04
Increase or decrease.....	13.90	4.62*	9.28	10.42	.28	19.98
Saugerties Savings Bank:						
1906.....	.....	67.67	67.67	20.73	1.05	10.55
1919.....	11.92	56.75	68.67	21.34	1.50	8.49
Increase or decrease.....	11.92	10.92*	1.00	.61	.45	2.06*
Seneca Falls Savings Bank:						
1906.....	.....	59.15	59.15	28.53	.04	12.28
1919.....	9.02	44.18	53.20	32.24	2.85	11.71
Increase or decrease.....	9.02	14.97*	5.95*	3.71	2.81	.57*
South Brooklyn Savings Bank Institution:						
1906.....	.....	49.33	49.33	44.10	.34	6.23
1919.....	20.34	40.64	60.98	33.33	.57	5.12
Increase or decrease.....	20.34	8.69*	11.65	10.77*	.23	1.11*
Sumner Savings Bank, Brooklyn:						
1906.....	.....	8.99	8.99	60.25	.....	30.76
1919.....	30.05	22.63	52.68	36.68	.....	10.64
Increase or decrease.....	30.05	13.64	43.69	23.57*	.....	20.12*
Troy Savings Bank:						
1906.....	2.10	76.03	78.13	14.05	.98	6.84
1919.....	12.72	54.95	67.67	27.45	.88	4.00
Increase or decrease.....	10.62	21.08*	10.46*	13.40	.10*	2.84*
Westchester County Savings Bank, Tarrytown:						
1906.....	.87	37.53	38.40	50.93	.64	10.03
1919.....	9.53	37.69	47.22	38.26	3.94	10.58
Increase of decrease.....	8.66	.16	8.82	12.67*	3.30	.55

\* Decrease.

Of the more important savings banks doing business in the City of New York, 16 out of 22 appear to have reduced their relative investments in mortgage loans between 1906 and 1919, some of them quite considerably. The Schedule that follows summarizes this condition very conveniently:

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
<b>Bank for Savings:</b>						
1906.....	1.22	44.60	45.82	50.31	.44	3.43
1919.....	12.83	47.02	59.85	35.94	.38	3.83
Increase or decrease.....	11.61	2.42	14.03	14.37*	.06*	.40
<b>Bowery:</b>						
1906.....	.....	48.66	48.66	45.89	.75	7.40
1919.....	15.61	29.67	45.28	48.67	.24	5.81
Increase or decrease.....	15.61	18.99*	3.38*	2.78	.51*	1.11
<b>Brooklyn:</b>						
1906.....	2.47	54.80	57.27	37.11	.74	4.88
1919.....	11.26	34.38	45.64	48.42	1.35	4.59
Increase or decrease.....	8.79	20.42*	11.63*	11.31	.61	.29*
<b>Central:</b>						
1906.....	.....	39.99	39.99	50.92	3.02	6.07
1919.....	9.07	37.49	46.56	44.45	3.63	5.36
Increase or decrease.....	9.07	2.50*	6.57	6.47*	.61	.71*
<b>Citizens:</b>						
1906.....	6.35	44.17	50.52	39.35	.55	8.58
1919.....	20.35	33.19	53.54	38.38	.95	7.13
Increase or decrease.....	14.00	10.98*	3.02	.97*	.40	2.45*
<b>Dime of Brooklyn:</b>						
1906.....	.....	43.09	43.09	46.91	6.34	3.66
1919.....	12.84	22.23	35.07	57.43	2.92	4.58
Increase or decrease.....	12.84	20.86*	8.02*	10.52	3.42*	.92
<b>Dollar:</b>						
1906.....	.....	30.52	30.52	63.00	.....	6.48
1919.....	17.17	32.26	49.43	41.16	1.97	7.44
Increase or decrease.....	17.17	1.74	18.91	21.84*	1.97	.96
<b>Dry Dock:</b>						
1906.....	.....	45.52	45.52	46.81	2.33	5.34
1919.....	22.79	26.81	49.60	42.16	.24	8.00
Increase or decrease.....	22.79	18.71*	4.08	4.65*	2.09*	2.66

\* Decrease.

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
<b>East River:</b>						
1906.....	.....	34.02	34.02	56.95	.63	8.40
1919.....	14.01	39.29	53.30	41.05	4.24	1.41
Increase or decrease.....	14.01	5.27	19.28	15.90*	3.61	6.99*
<b>Emigrant Industrial:</b>						
1906.....	.....	43.53	43.53	51.11	1.19	4.17
1919.....	12.18	38.43	50.61	42.83	2.57	3.99
Increase or decrease.....	12.18	5.10*	7.08	8.28*	1.38	.18*
<b>Franklin:</b>						
1906.....	.....	42.50	42.50	52.29	1.10	4.11
1919.....	.83	44.10	44.93	48.93	1.11	5.03
Increase or decrease.....	.83	1.60	2.43	3.36*	.01	.92
<b>Greenwich:</b>						
1906.....	.....	49.91	49.91	45.18	.38	4.53
1919.....	1.59	50.04	51.63	40.82	1.35	5.20
Increase or decrease.....	1.59	.13	1.72	4.36*	.97	1.67
<b>Harlem:</b>						
1906.....	.....	36.69	36.69	52.31	1.62	9.38
1919.....	1.58	38.92	40.50	51.67	1.96	5.87
Increase or decrease.....	1.58	2.23	3.81	.64*	.34	3.51*
<b>Lincoln:</b>						
1906.....	.....	40.80	40.80	50.13	.64	8.43
1919.....	.70	34.29	34.99	54.06	.26	10.69
Increase or decrease.....	.70	6.51*	5.81*	3.93	.38*	2.26
<b>New York:</b>						
1906.....	.....	34.44	34.44	60.51	.90	4.15
1919.....	1.53	42.49	44.02	48.24	1.33	6.41
Increase or decrease.....	1.53	8.05	9.58	12.27*	.43	2.26
<b>Richmond County:</b>						
1906.....	.....	28.16	28.16	60.50	.97	10.37
1919.....	23.32	24.77	48.09	38.45	.27	13.19
Increase or decrease.....	23.32	3.39*	19.93	22.05*	.70*	2.82
<b>Roosevelt:</b>						
1906.....	.....	31.46	31.46	58.52	.....	10.02
1919.....	12.75	33.81	46.56	39.89	6.65	6.90
Increase or decrease.....	12.75	2.35	15.10	18.63*	6.65	3.12*

\* Decrease.

NAME OF BANK	United States bonds	All other bonds	Total bonds and stocks	Mortgages	Other investments	Cash
<b>Seamen's:</b>						
1906.....	.....	54.50	54.50	41.57	.55	3.38
1919.....	7.35	40.33	47.68	46.39	1.41	4.52
Increase or decrease.....	7.35	14.17*	6.82*	4.82*	.86	1.14
<b>South Brooklyn:</b>						
1906.....	.....	49.33	49.33	44.10	.34	6.23
1919.....	20.34	40.64	60.98	33.33	.57	5.12
Increase or decrease.....	20.34	8.69*	11.65	10.77*	.23	1.11*
<b>Sumner:</b>						
1906.....	.....	8.99	8.99	60.25	.....	30.76
1919.....	30.05	22.63	52.68	36.68	.....	10.64
Increase or decrease.....	30.05	13.64	43.69	23.57*	.....	20.12*
<b>Union Dime:</b>						
1906.....	.....	31.71	31.71	58.68	4.28	5.33
1919.....	8.88	23.85	32.73	56.19	2.77	8.31
Increase or decrease.....	8.88	7.86*	1.02	2.49*	1.51*	2.98
<b>Williamsburgh:</b>						
1906.....	4.50	48.54	53.04	41.67	.45	4.84
1919.....	15.68	34.07	49.75	45.93	1.67	2.65
Increase or decrease.....	11.18	14.47*	3.29*	4.26	1.22	2.19*

\* Decrease.

It will be noted that six of the banks that appear in the above Schedule are shown also in the one preceding it, indicating that they reduced their relative investments in mortgage loans during the period to a point below 40 per cent of their total funds available for investment. The banks in question are the following:

Bank for Savings in the City of New York.

Citizens Savings Bank, New York.

Richmond County Savings Bank, West New Brighton.

Roosevelt Savings Bank, Brooklyn.

South Brooklyn Savings Institution, Brooklyn.

Sumner Savings Bank, Brooklyn.

Of the foregoing banks the South Brooklyn Savings Institution had the least investment, relatively, in mortgage loans at December 31, 1919, and the Sumner Savings Banks, Brooklyn,

had the greatest reduction in mortgage loans during the period of 14 years ended that date. Regarding the Richmond County Savings Bank, which shows the next greatest reduction for the period, reference is made to comments herein under Conclusion No. 2.

### **Life Insurance Companies.**

*Their Investments and Practices and Suggested Reforms.*—As a result of the life insurance scandals that were exposed by the New York State Legislative Committee appointed in 1905, known as the “Armstrong Committee” of which Hon. Charles E. Hughes was the Chief Counsel, the Legislature prohibited the Companies from thereafter investing any of their funds in stocks and required them within five years thereafter to dispose of all stocks then held by them and to limit their investments to bonds of the character prescribed by the Act.

Some of the Companies, such as the New York Life Insurance Company, complied with that requirement within the prescribed period. Others in good faith proceeded to sell such of their securities as were marketable and could be sold to advantage but some of them continued to hold these prohibited securities the bulk of which were marketable.

At the expiration of the five-year period the Legislature extended the time for another five-year period to 1911. Again in 1911 the time was extended for a similar period to 1916. In 1916 there was still another extension until 1921 and in 1921 the time was again extended not only for a further period of five years to 1926 but as long a time thereafter as the then Superintendent of Insurance might determine. In each case the extension was recommended by the then Superintendent of Insurance.

The result of all these extensions was disastrous to the interests of the Companies. The form of the last extension is unfortunate in that it confides to the Superintendent of Insurance the power to permit these Companies to continue indefinitely to hold the securities that they had been directed by the Legislature of 1906 to dispose of within five years. If they had been compelled to do so the Companies of this State would have realized for these securities many millions of dollars in excess of what they brought and still more in excess of their present values.

The President of the Mutual Life Insurance Company of New York testified to the statement that in that period of 15



years his Company could not have sold its vast holdings of common stock, such as those of the New York, Hartford and New Haven, St. Paul & Pennsylvania Railroads, bank stocks and securities of a similar kind that have an active daily market on the New York Stock Exchange. At the time of his examination his Company was still holding these securities. He further testified that the profits of his Company on the sales of stocks had more than offset the losses but produced no figures to support that statement. The detailed figures introduced in evidence establish the contrary. They show that the net losses of the Company on stocks sold during the five years ending December 31, 1920, after crediting all profits were \$1,040,581 and that there was a net shortage as of that date on the stocks still held over and above profits as of that date of \$5,339,695. Part of the last named sum has doubtless since been recovered but none of the ascertained loss is recoverable.

During the same period the percentage of mortgage loans on real estate of this Company was the lowest of any of the five great Companies being only a trifle over 15 per cent as against the average investments on mortgage loans of all the companies in the State of 21.50 per cent and of the average of 44.1 per cent of mortgage loans by Life Insurance Companies of other States and as against the investment of the largest of the Companies, the Metropolitan Life Insurance Company, of over 40 per cent of its assets in mortgage loans.

There has been a constant reduction by the Mutual Life in its mortgage loans in favor of listed securities in the face of the experience of the past 14 years demonstrating that the former were vastly more safe, stable and conservative and have yielded an average income return of at about 25 per cent over the return from the securities in favor of which that Company insists in discriminating as against mortgage loans on real estate.

The proportion of mortgage loan investments to assets of the Mutual Life Insurance Company for the past ten years is as follows:

<i>Year</i>	<i>Per Cent</i>
1911 .....	23.77
1912 .....	23.29
1913 .....	22.05

<i>Year</i>	<i>Per Cent</i>
1914 .....	20.89
1915 .....	17.99
1916 .....	17.64
1917 .....	17.26
1918 .....	15.75
1919 .....	15.21
1920 .....	15.54
<hr/>	
Average for the ten years.....	18.80
<hr/> <hr/>	

Another Company operating in a similar way is the Prudential Life Insurance Company of New Jersey which does a large proportion of its business in the State of New York.

The inquiry into the investments of the Life Insurance Companies has not, however, yet been completed by the Committee. Only the Presidents of the Mutual Life and the Prudential Life have been called to the witness-stand. The Committee has not yet had time to examine the officials of the other Companies as to investments but sufficient evidence has already been gathered from the examination into their accounts to satisfy the Committee as to the character of the legislation that should be recommended with respect to the investments of these Companies.

## **CHAPTER 12.**

### **EXORBITANT CHARGES AND DISCOUNTS ON LOANS.**

The construction of buildings continues to be further discouraged by the difficulties encountered by prospective builders in securing loans or other financial assistance. Life Insurance Companies, savings banks, and other lenders of money have imposed unusual conditions.

Although these transactions cannot be said to be in contravention of the letter of the law, they were without ethical justification. These transactions were accomplished by three different methods:

1. By the exaction of large bonuses for making the loan.
2. By compelling the borrower to accept as part of the loan real property generally unmarketable at high values or United States Government Bonds at par when they were selling far below par and could have been duplicated by the lender at the then market price.
3. By requiring the borrower to transfer his property to a corporation in order to avoid the Usury Law since corporations are not permitted to plead usury.

In many instances the lender would exact a bonus directly from the borrower. In other instances the lender would secure his bonus by participating in an exorbitant commission charged by the broker in negotiating the loan.

The first type of exaction is illustrated by the statements on the witness-stand of Abel King whose business was that of buying second and third mortgages, to the effect that he required and secured bonuses in some cases amounting to 50 per cent or more of the principal of the loan. Lists secured from him showed 161 such transactions amounting to over \$300,000 in the past few years in all of which he secured large bonuses.

The second type is illustrated by transactions to which the Home Savings Bank of Albany was a party of which the following are illustrations:

In 1920 the Home Savings Bank loaned \$250,000 on property at Syracuse exacting a broker's commission of \$35,000 to cover all expenses. This commission amounted to about 14 per cent. Under an agreement between the broker and the bank the broker paid the

bank \$20,000 of this bonus money. The effect of the transaction was that the owner received only \$215,000 in cash for which he executed a mortgage for \$250,000. He paid 6 per cent interest on the \$250,000 up to the maturity of the loan and was then required to pay the \$250,000 so that in addition to the bonus of 14 per cent which was deducted from the face of the loan he was required to pay 6 per cent on the \$35,000 which he never received.

In 1920 the same bank loaned \$200,000 on property in the Bronx at 6 per cent for five years. The total cost to the lender was \$20,000 out of which the bank received \$10,000 and the broker retained the balance.

This same institution in 1920 loaned \$160,000 on premises at 529 and 535 West 55th St., New York City. The borrower paid \$17,628.34 for commissions and expenses of the loan out of which sum the bank received a bonus of \$9,000.

It should be borne in mind in this connection that the usual commission for securing loans of this kind in the City of New York is one per cent.

In numerous other cases savings banks refused to make loans unless the borrower would accept at par Government bonds that were then selling at a substantial discount and which the bank could have repurchased in the market at the same discount, amounting at times to as much as from 10 per cent to 15 per cent of the loan.

The second type of exaction was largely indulged in by Life Insurance Companies and savings banks that wanted to get rid of undesirable real estate which they had acquired under foreclosure or otherwise, by unloading on the anxious applicant for a loan.

Officials of these financial institutions testified that such properties were not forced upon the borrower but admitted that they would not have made the loans but for the inducement to get rid of the properties.

In August, 1920, the Mutual Life Insurance Company required as a condition of a loan of \$1,440,000 on high-class desirable property on Seventh avenue, New York, between 30th and 31st streets, in which the loan amounted to well under 60 per cent of the appraised value of the property, that the borrower purchase from it upwards of twenty parcels of vacant property scattered in all directions, at the price of

\$650,000. As the borrower required this money to complete his building, the Insurance Company deducted \$100,000 from the loan as a cash payment on the lots and took back a mortgage for the balance of \$550,000 of the purchase price. The loan was at 6 per cent interest. It was admittedly as desirable a loan as could be had, in one of the best neighborhoods in the city of New York and upon a new building the value of which with the land was more than double the amount of the loan.

About August, 1917, the Prudential Life Insurance Company required as a condition for lending \$550,000 on a first mortgage of 6 per cent on property at the southwest corner of 59th street and Sixth avenue in the city of New York that the borrower should take a property owned by it at No. 68 Hudson street, Hoboken, N. J., at the price of \$128,000, the borrower paying \$15,000 in cash out of the loan and giving back to the Insurance Company a mortgage for the balance of \$113,000 of the purchase price.

At about the same time in August, 1917, the same Company required as a condition for a loan of \$540,000 on property at 905 West End avenue, New York city, that the borrower take a parcel of property at the corner of Market and Halsey streets in Newark, N. J., at a purchase price of \$228,000, the borrower paying \$15,000 in cash on account of the purchase price of the Newark property and giving back a mortgage for \$213,000 for ten years.

Both companies were taking advantage of the loan market conditions in lending money on good security.

The Secretary of the Dimes Savings Bank of Brooklyn testified to eighteen instances of mortgage loans that had been made, all or partly in securities, in excess of the then quoted value of such securities, and to thirty-three instances in which the borrower was required to take from the Savings Bank real estate that it owned. All of these fifty-one transactions took place since the beginning of 1916.

The same bank required the borrower as a condition for a loan of \$325,000 in 1918 on property at 255 West End Avenue to take in part payment of the loan property at Madison Avenue and 72d Street for \$225,000 on which the borrower paid \$25,000 that was deducted from this loan and gave back to the bank a mortgage of \$200,000.

The Brooklyn Savings Bank, as a condition of lending \$345,000 in 1918 on property at 141 East 39th Street, New York City, required the borrower to purchase a piece of property at Broadway and Walker Street for \$167,500 on account of which the borrower paid the bank \$25,000 in cash that was deducted from his loan and gave back a mortgage to the bank of \$132,500.

Testimony was given of many other instances where institutions forced undesirable properties upon borrowers as a condition for loans.

The practice of requiring borrowers to take Liberty Bonds at par instead of cash, often in payment of the whole and at other times in payment of a substantial part of the loan, was resorted to by financial institutions, obviously with profit. At the time these substitutions were being made the price at which the Bonds were quoted was far below par. The effect of these exactions was, of course, to add this discount to the legal rate.

Instances of these practices could be multiplied. The result was that owners and builders realizing the difficulty of securing financial support, were afraid to take on building operations.

Deserving of the highest commendation for its public spirit and far-sighted wisdom in the interest of its policy-holders and of the public has been the attitude of the Metropolitan Life Insurance Company in this housing emergency. Within a period of less than ten years its mortgage loans on real estate have increased from \$72,000,000 to upwards of \$454,000,000.

The Williamsburgh Savings Bank also deserves high commendation for it has throughout the emergency continuously made mortgage loans to home buyers and home builders.

## **CHAPTER 13.**

### **INSURANCE: GENERAL REMARKS IN RELATION TO ALL BRANCHES**

Insurance is an increasingly important factor in the cost of housing, both during construction and after completion, but especially during construction. Fire insurance is a permanent continuing expense as is also liability insurance to the public and elevator insurance in the larger buildings. The construction of buildings involves temporary fire insurance, workmen's compensation insurance and public liability insurance (meaning insurance against accidents other than those to workmen engaged in construction, and to which we will hereafter refer to as Accident Insurance). The taking of fidelity and surety bonds from contractors, sub-contractors and others is also (especially by municipalities) a substantial element of expense in connection with building construction.

Automobile insurance has likewise become an important item in the cost of building construction owing to the fact that building material is now largely moved on trucks, not only from the boats and railroads to the place of construction, but to a large extent from the dealer directly to the builder; deliveries are now frequently made in that way for distances of 100 miles and over. Automobile insurance against fire, liability to employees and to the public and against theft constitute further items of expense connected with the construction and maintenance of buildings.

#### **(1) Insurance a Monopoly**

The insurance business in nearly all its branches as connected with building costs, including fire, workmen's compensation, accident, fidelity, plate glass, surety and automobile insurance as conducted in the State of New York, and particularly in the City of New York, in the lines of insurance relating to housing (except as to the small amount of workmen's compensation insurance written by the State Fund and the Mutual Companies, to which reference will be made later) is controlled by combinations, agreements and practices between the companies in such a way as to constitute practically a control that was not contemplated by the statute in permitting rate making bureaus.

Cooperation between the different insurance companies through these Bureaus for making rates, inspections, audits and (particularly in fire companies) for adjustments, has been determined by the State of New York to be advisable.

Legitimate cooperation has been abused in New York State with the result that competition has been impaired and the insurance buyer has no choice but to pay the uniform price charged by all the companies, even though excessive.

The insurance company is a trustee handling the funds gathered from innumerable policyholders. The United States Supreme Court has said that the business of insurance is one impressed with a public trust. As the business merely distributes the loss it necessarily follows that the losses are in the end always borne by the policyholders who buy the insurance.

As indicating the great volume and importance of the Insurance Business (other than Life Insurance) that is done in the United States, the following statistics taken from official sources for the year 1920 are significant:

#### 1920

Fire Insurance Premiums written.....	\$1,000,000,000
(Of which the Stock Companies wrote \$881,700,237.)	
Workmen's Compensation Premiums.....	204,329,287
Premium written on Public Liability.....	98,444,455
Fidelity Insurance Premiums.....	51,655,911
Other Casualty Insurance.....	210,459,901
<hr/>	
Total Premiums written for 1920.....	1,564,889,554

Your Committee is informed that a very large annual savings could be effected by proper regulation.

The Stock Companies do the great bulk of this business. The Mutual Companies return to their policyholders an average of 25 per cent on the proportion of the premiums written by them besides accumulating large surpluses out of their profits. Less than one-half of this great sum is returned to the policyholders in the way of losses, about \$700,000,000 is absorbed in expenses and profits.

*Extent of business; fire companies.*—The Home Insurance Company is the largest of all the Domestic Fire Insurance Companies. Its assets are about \$75,000,000. In 1920 its capital was \$6,000,000. It had been increased in 1913 from \$3,000,000 to



\$6,000,000 by a stock dividend of \$3,000,000. The bulk of its then capital was paid for out of dividends. The stockholders received in cash dividends and stock dividends \$32,495,000, in addition to which there is an accumulated surplus that belongs to the stockholders of about \$63,000,000 making a total of over \$95,000,000 that has been earned by the Company since its organization in 1853 on a then capital of \$500,000, which had from time to time up to 1920 been increased to \$2,000,000 by cash subscriptions by the stockholders.

At the end of the last ten-year period there was about \$15,000,000 added to the net value of the Home stock in addition to which it had paid about \$28,000,000 in dividends during that period or an average of \$2,800,000 per year. At the beginning of the ten-year period the net value of the stock was \$19,800,000.

The Continental for 1920 reported a loss of \$407,000 but at the same time paid a cash dividend of \$2,000,000. The Home Company showed a deficit of \$425,000 in 1920 but at the same time paid a cash dividend for that year of \$1,500,000. The surplus of the Continental fell about \$2,300,000. This was not, however, due to the fact that the insurance business did not pay. It resulted from a writing-down of the value of their securities, mainly the depreciated value of their stocks.

The Continental was organized in 1853 with \$500,000 capital. At the end of 1919 its capital was \$10,000,000 of which \$8,000,000 was in the form of stock dividends. It had on hand in 1919 total assets of \$39,600,000. The stockholders had contributed in all during the existence of the Company \$2,000,000. Cash dividends were worth \$30,000,000 more besides which the value of the stock at that time was \$30,900,000, which includes the \$8,000,000 of stock dividends. The value of the stock plus the dividends paid out amounted to over \$52,000,000.

The Globe & Rutgers Company was organized in 1899 with a capital of \$400,000. In 1916 an additional \$100,000 in cash was paid in. At the end of 1919 the Company had been in existence for twenty years. Up to that time it had paid stock dividends of \$200,000 and cash dividends of \$2,857,978. In 1909 its stock was worth \$3,408,000. Ten years later it was worth \$16,500,000, in addition to dividends paid during that period of \$2,145,000.

As evidencing the large profits of the Fire Insurance Companies, notwithstanding their claims that theirs is a hazardous

business and is done on a small margin, it appears from the evidence based on the statements of the Globe & Rutgers Company that in the five years ending 1920 the Company earned \$14,000,000 on a capital and surplus of approximately \$6,500,000 (see Exhibit 787).

It further appears that there was collected by the British Fire Insurance Companies in the way of premiums on their business for 1919 on United States risks a sum amounting to \$217,142,279. In addition to this there was paid to other foreign fire insurance companies for premiums on business during the year 1919 and to American companies that are owned in foreign countries about \$97,000,000, making a total of premiums paid to foreign fire insurance companies for United States risks alone in 1919 of about \$314,000,000, equivalent to about one-third of all the premiums paid for fire insurance in the United States. To this sum there must be added an additional \$100,000,000 of premiums on fire insurance not reported to the various State Insurance Superintendents that went to the London Lloyds and other foreign unlicensed associations. (See Exhibit 788.)

*Both Competition and Regulation are Absolutely Essential.*—The business of insurance has long been subject to regulation by the State, but principally to protect the insured against the insolvency of the Companies. It is for this purpose that insurance companies are required to maintain reserves to cover the period for which their policy contracts have yet to run and for losses that have been incurred but which have not been paid. In order to assure this protection to the policy-holding public, annual statements and periodical examinations are required by the State.

The State also prescribes or limits the forms and conditions of the insurance contracts and has more recently prohibited discriminations between insured in the same situation but has never gone further to protect the insured against exorbitant premium charges nor against the other abuses that have grown up in the business. The State has also assumed a very limited theoretical supervision over Rating Bureaus and other joint activities of the Companies.

It is only in very recent years that other States have undertaken to permit insurance companies to cooperate in making rates and have required the filing of the rates so made and have subjected these rates to the supervision of the public authorities to prevent exaction of unreasonable or excessive rates.

The laws of New York contain no provision whatever for supervision by any public official over the rates charged in any line of insurance; there is no protection to the public against unreasonable rates as in other States.

As to Workmen's Compensation Insurance and as to that alone (hereafter separately dealt with), Section 67 of the New York Insurance Law provides that the rates charged shall be adequate but not even in that case is the State permitted to prevent excessive rates.

About one-tenth of the entire insurance business of the United States is transacted in the State of New York and more than one-half of this amount is transacted in Greater New York. This vast volume of business is confined almost exclusively to Stock Companies, who alone, participate in Rating Bureaus and who are under binding agreements to exact the same rate from the insurance buyer.

The one outstanding exception is in Workmen's Compensation Insurance of which the stock companies do about 70 per cent of the total business and of the remainder about 21 per cent is done by Mutual Companies and about 9 per cent by the State Fund, which will be separately discussed.

## **(2) Fire Insurance**

The total fire insurance premiums paid in the United States for the year 1920 was upward of \$1,000,000,000. Four per cent of the stock companies wrote 40 per cent in volume of the insurance written by stock companies. Twenty-five per cent of the leading American stock companies wrote net premiums of \$324,937,134. The Home and Continental Fire Companies alone did in 1920 a business of \$62,000,000 in fire insurance premiums. The sixty foreign companies (mainly British and members of the exchange) wrote net premiums of \$127,732,132. About one third of all premiums paid in 1920 in the United States to stock companies were paid into foreign hands.

In Greater New York alone there were more than \$47,000,000 paid in premiums in 1920 and in the entire State there were more than \$96,000,000. This enormous volume of business was transacted almost wholly by the stock insurance companies at uniform rates, fixed under agreement by four rating bureaus without supervision or restriction — one operating in each section of the State.

**(3) Fire Insurance Rating Bureaus**

A startling situation was disclosed with regard to the New York Fire Insurance Exchange, which makes the rates for Manhattan and the Bronx. Every stock fire insurance company operating in this territory was a member of the New York Fire Insurance Exchange. The rules of the exchange required every member to collect the rates fixed by it. No company, agent or broker was permitted to exchange or transact any business with any other company, agent or broker not a member of the exchange. Reinsurance with nonmembers was also prohibited. Finally, no mutual company could be a member if it undertook to return any of its savings to policyholders. The result was that property owners either must take their insurance at the rates and on the terms dictated by the New York Fire Insurance Exchange or go without insurance.

The result is illustrated by the premiums and losses for the territory covered by the New York City Exchange (its jurisdiction includes a little less than the entire Greater New York):

Year	Net Premiums Collected	Losses Incurred	
1912.....	\$24,806,166	\$12,019,486	Less than 50 per cent.
1913.....	23,754,992	7,763,716	Less than 32 per cent.
1914.....	23,082,032	10,347,243	Less than 45 per cent.
1915.....	21,668,301	7,668,702	About 34 per cent.
1916.....	24,382,681	9,153,258	About 40 per cent.
1917.....	27,907,086	14,000,000	About 50 per cent.
1918.....	35,569,363	12,639,962	About 34 per cent.
1919.....	37,798,314	13,698,109	About 37 per cent.
1920.....	47,727,874	22,183,916	About 46 per cent.

It appears from the testimony of Mr. Robb, manager of the New York Fire Insurance Exchange (p. 6549) that for the nine years from 1912-1920, inclusive, premiums written on fire insurance by the members of the exchange in the territory of the Greater New York (which does not include all of the City of New York) was \$246,700,000, and the losses paid, \$109,474,000, showing a difference of gross premiums received over losses incurred during the nine-year period of \$156,226,000.

In other words, the policyholders paid more than \$225 for each \$100 returned for losses.

This general situation was commented on in the annual report of the Superintendent of Insurance for the year 1918, pages 14-16, as follows:

"A committee, appointed at a meeting of companies to supply as much of the desired information as was accessible, later furnished statistics tending to show that the losses paid by fire insurance companies on property in New York City for a period of five years ending December 31, 1916, amounted to approximately 42 per cent of the premiums collected during that same period."

The situation differs only in degree and in a few minor details in the other three exchanges operating in the State of New York and elsewhere throughout the country where the same bureau members do the bulk of the business.

#### **(4) Stock Company Control; Fire Insurance; Restrictions Upon Mutual Companies**

The New York insurance laws have in effect for years prohibited the organization of mutual fire insurance companies to transact a general business. During the early part of the year 1921 New York had only three legal reserve general writing mutual insurance companies. These were organized in 1836 and 1837. One of these has since been converted into a stock insurance company. Other States have a large number of such companies. These companies ordinarily write at the same rates as a stock company and return to their policyholders savings which range from 20 per cent upwards of the premiums charged.

A number of such mutual companies from other states have been licensed in the State of New York for several years but the prohibitions against membership in the rate-making Bureaus have prevented these companies from developing their business and have deprived the people of New York of the savings which would otherwise have been afforded through such mutual insurance.

*Conversion of Mutual Companies Into Stock Companies.*—A number of successful mutual insurance companies have been converted into stock insurance companies under the provisions of Section 125 of the New York Insurance Law. This does a wrong both to the policyholder members of these companies and to the insurance buying public. It deprives the members of their property and gives it to a few favored officers. It also deprives the insurance buying public of a public service institution furnishing competition in insurance and returning savings to policyholders.

The National Associations of Mutual Insurance Companies have condemned such statutes and demanded their repeal in the different states in which they are in force. This statute should be promptly repealed.

#### **(5) Control in Casualty Insurance.**

The investigation disclosed that the stock insurance companies have a monopoly of issuing fidelity, burglary, plate glass, elevator insurance and surety bonds and in issuing all forms of casualty insurance on a non-assessable plan. The total premiums on the various classes of casualty insurance *which is not permitted to be written by mutual companies* amounted in 1920 to \$21,000,000 for the State of New York alone. The rates for this insurance are fixed by Bureaus in which the companies cooperate and the profits of the companies are shown to be vastly higher in the kinds of insurance where competition is absent.

The testimony shows that in fidelity insurance the policyholder is paying more than \$500 for each \$100 returned for losses. The policyholder pays more than \$330 in premiums for each \$100 returned for surety losses and nearly \$250 in premiums for each \$100 returned for liability losses, or for burglary and theft losses.

In the Workmen's Compensation field, where the State Fund, the Mutual Companies and stock companies compete (which is separately treated in this Report), the cost to the policyholder in stock companies ranges from \$190 to \$206 for each \$100 returned for losses, as against from \$143 to \$153 for each \$100 returned for losses by the mutual companies. It is apparent that the active competition of the mutual companies forces a reduction of the rates, which makes a material saving to stock company policyholders as well.

#### **(6) Discriminations Against Mutual Companies.**

The laws of New York contain a number of limitations and restrictions on Mutual Companies that are not found in the laws of other states. One section provides a limitation on the surplus that may be accumulated by mutual companies. The repeal of the law permitting the conversion of a mutual into a stock company as here recommended eliminates any danger that the surplus will be taken improperly. The accumulation of a surplus is necessary and its limitation inevitably tends to impair the responsibility and prevent the development of mutual com-

panies. That was its manifest purpose, since by restricting the amount of its surplus the amount of risks it may write is automatically limited.

The New York law also provides for the approval by the Superintendent of Insurance of any dividend payments or returns of savings by mutual companies to policyholders. This restriction is not necessary to protect the solvency of the Mutual Companies but if it is necessary in the case of mutual companies it is equally necessary with regard to the dividends paid by stock companies to their stockholders. These should be matters resting in both cases in the sound discretion of the directors, and the supervisory power of the Superintendent of Insurance is ample without any arbitrary statute such as is applied exclusively to the mutual companies. These restrictions should be removed.

#### **(7) Credit Losses in Fire Insurance**

A serious evil that entails large losses in fire insurance is that of granting to the insured long credit in the payment of premiums and permitting the cancellation of policies as not taken without requiring the collection of the premium.

This results in a discrimination in favor of the dishonest insured and in loading an additional cost upon the honest policyholder, who takes and pays for his insurance in the regular course of business. The statute should be amended to require insurance companies and their agents to immediately cancel any policy on which the premium has not been paid within thirty days after the date of the policy, requiring the collection of a premium in all cases and to penalize any company failing to comply with this requirement.

#### **(8) Rating Bureaus.**

The reorganization of the National Workmen's Compensation Service Bureau was undertaken for the purpose of including all forms of insurance (other than Life and Fire) that were not embraced therein, such as Burglary, Plate Glass, Credit, Elevator, Automobile, etc. It is also intended to adhere to the present policy of excluding from membership all except Stock Companies. The effect of this reorganization will be the further concentration of power in the hands of this Bureau and will necessarily result in a still more complete monopoly by the Stock Companies over all these classes of insurance.

According to the testimony of Mr. Whitney the total amount of premiums collected in 1920 by members of the Bureau on Casualty and Surety lines was \$214,000,000. In the same year \$50,000,000 in premiums were collected for policies issued for liability and personal injury, not including Workmen's Compensation. (Pp. 6273-6275.)

The amount of this class of casualty business in the State of New York for 1920 on which the Mutuels have been excluded is between \$20,000,000 and \$21,000,000. There the Stock Companies have the monopoly because the Mutuels are not allowed to do the business. (P. 6522.) They are likewise excluded from Burglary, Plate Glass, Fidelity, Surety, Credit, Elevator and all forms of non-assessable insurance. (P. 6521.) As before stated, having been excluded from these lines in the State they are not permitted to do any business whatever in any of these lines outside the State. If they transact any business outside the State in any of such lines they are prohibited from doing any insurance business whatever of any kind in the State.

The business in New York State of writing non-assessable compensation, public liability and automobile insurance, of which the Stock Companies have the monopoly, amounted in 1920 to \$82,000,000 in premiums. (Pp. 6523-6524.) Some of this business could be done by the Mutuels and is being done by them outside New York State at 25 per cent less than it is being done by the Stock Companies in this State which would mean a large saving to the public in New York State. Mr. Whitney is now the assistant manager of the Bureau the name of which has been changed to National Bureau of Casualty and Surety Underwriters.

Hon. Jesse S. Phillips superintendent of Insurance, of New York, resigned in December, 1921 and is now the manager of said Bureau.

#### **(9) Unearned Premiums and Income Therefrom.**

There is another practice in which all the Stock Insurance Companies (other than the Life Companies) have for years indulged, which should now be ended.

When a policyholder takes out a policy of insurance, at times for as long a period as six years, whether against Fire, Workmen's Compensation, Public Liability, Automobile or other Accident, Fidelity, Surety, a Burglary, he usually pays the premium for the entire term in advance and is allowed a substantial rebate.



These unearned premiums in their possession amount to over six hundred and fifty millions of dollars.

The law requires that fixed percentages of the premium paid in this way in advance shall be put aside by the Companies as a reserve. This unearned premium reserve amounted for the year 1920 for the ten leading stock company members of the Bureau to about \$197,000,000.

Mr. Alfred M. Best who is a leading insurance expert and statistician in the United States and the author of standard works on this subject, testified as follows: (P. 2180.)

"Experience has shown that there is a very large profit in this liability reserve that the law has required to be set apart for extra safety. Of this reserve approximately one-half is profit which is nowhere shown upon the books of the Company. The liability reserves are invested in securities and bring in returns. These ten Companies are earning in nearly every case over \$1,000,000 by way of return on this reserve. They are putting that earning on this reserve fund into their own profits and surplus and using it for their own purposes.

"The income on that fund is being taken by these Stock Companies for the stockholders. The income of the ten leading companies of the New York Exchange for 1919 from that fund was over \$10,000,000 and is approximately the same for every year. If the income from that reserve were credited to the fund they could reduce the premiums about \$10,000,000 per annum if they wanted to. There is not to my knowledge any Stock Company doing business in the State of New York that is not a member of the Exchange."

This unearned premium reserve and the vast yearly income it yields is being taken by the Companies year by year to themselves, when in fact both the surplus reserve and particularly the interest on the total reserve belong to the policyholders. These are a part of the funds that are being put into speculative securities.

Your Committee agrees with Mr. Best: (1) That the unused portion of the unearned premiums set apart by the statute should go back to the policyholders in some form, and not into the treasuries of the Companies for the benefit of their stockholders; and (2) More particularly that the interest and income on these unearned premiums belong to the policyholders and not to the stockholders of these Stock Companies and it recommends legis-

lation so that the Superintendent of Insurance will see to it that this income is so applied.

#### (10) Official Opinion as to Regulation of Rates

The following is a summary of the record on this subject: Mr. Francis B. Stoddard, who has been Superintendent of Insurance since December 1st, 1921, but who had been in the Department for six and a half years as Deputy Superintendent in charge of the New York City office, testified:

"I approve of the authority and power of the Superintendent of Insurance to supervise not only fire insurance rates but all rates as to their reasonableness."

Mr. Deutchberger testified:

"I am in favor of State supervision of Fire Insurance Companies." (P. 6505) "I am also in favor of State supervision of Public Liability and Compensation and all those other lines now being examined about although at one time I had some doubt about it. I have had a good deal of doubt about Burglary Insurance with the task of passing upon the reasonableness of rates which are not standardized but I can see no harm in this compulsion. If it is too much of a burden for one Superintendent it would be cheaper to have two than to have the public suffer from exorbitant rates."

Mr. Jesse M. Phillips was also examined on this subject and testified in substance as follows:

"In 1919 I did recommend State supervision for Fire Companies. I have reached the conclusion that the State having supervision of these rates as to reasonableness would be better. I heard Mr. Whitney state that in connection with various items of insurance connected with the building, Accident and Liability, they were very excessive. State supervision ought to have the effect of correcting injustices of that kind. When the rates amount to about 4,000 per cent. that is a little too high. If the experience rating is correct I should say that a rate that amounts to 6000 per cent. should be corrected.

"I think the State Superintendent should have the power to take the experience rates as a whole for the purpose of

determining whether or not the Companies that have compiled these rates are making a reasonable profit and that then he should have the right to order a reduction. I am not authorized by the Bureau of which I am the head to state to the Committee the Bureau will support that legislation. I am speaking as an individual and from my observation. I am also speaking from my experience as State Superintendent."

Mr. Alfred M. Best says:

"I think there should be complete supervision by the State through the Insurance Department."

Mr. Whitney's attitude on this subject of State supervision is interesting. It will be observed that his point of view changed whilst he was under examination. At the beginning he said:

"There is no supervision in the State of New York as to the reasonableness of rates. I am not willing to have State Supervision over our rates now. In some other States the rates are supervised by the State.

"Theoretically I think it would be right to have public authority to pass upon the reasonableness of those rates but practically it would be wrong. The New York Insurance Department now looks to it that this Bureau does not gouge the public. It has the right to say we are gouging the public *but no right to stop it*. I would not join with this Committee in a recommendation that the State should supervise the reasonableness of rates that are made by the joint action of competitors.

"I do not think that we people in the business ought to be the judge and the sole judge of whether the profit of the Bureau needed cutting. The public should be the judge and the public is represented through the Insurance Department, which has the right of giving publicity. I think that the publicity of the Superintendent that we are charging on some lines of insurance many times a just rate and that it is a great burden on building construction would do a great deal of good. I think it would stop us. If he had the power to tell us what we should charge, that power would be abused very likely by the Superintendent.

"Our Bureau cannot do business in States that have Anti-Trust laws, perhaps because we are a trust.

"The law does not give the New York Insurance Department the power to pass upon the reasonableness of Workmen's Compensation rates.

"There is no more and no less reason for supervision of the rates that we are now discussing than of higher rates and inasmuch as the Fire Companies have finally agreed to legislation to supervise their rates I do not think there is any more reason or any less reason why the same legislation should not apply to these rates but I am not authorized by my Bureau to consent to that.

"My only opposition to State supervision of these rates is because I think that political consideration might induce the Legislature to reduce these rates below a paying figure in order to get public approval.

"I should say that in about a dozen states the members of my Bureau do 47 per cent of the business of the country as a whole. I do not think we do 85 per cent of the business of New York.

"I was negotiating for a monopoly without State supervision. I have no objection except the practical objection — politics — to State supervision. If there was an earnest effort made to eliminate the possibilities of politics on this I should think the Stock Companies might join in such an effort in the recommendation of State supervision of the different lines.

"If 50 per cent of my Bureau representing the power and the mind in the insurance field in these lines chose for a while in the unregulated lines to eliminate outside competition by changing the rates below living rates, it could do it.

"I think the Stock Companies in New York do almost all the business in Fidelity and Surety lines. I don't know of the Mutuals doing any of that business. That is also true as to Credit Insurance, Burglary Insurance, Plate Glass Insurance, Elevator Insurance, Non-Assessable Workmen's Compensation Insurance, Non-Assessable Liability Insurance, and as to Non-Assessable Automobile Casualty Insurance."

**(11) Opinions as to Admission of Mutuals to All Lines in This State**

As a result of the disclosures of the committee the weight of opinion now seems to be in favor of compelling the admission of the Mutual Companies to the Rating Bureaus and of permitting them to do all classes of Casualty, Fidelity, Surety, Plate Glass and other Lines that the Domestic and Foreign Stock Companies are permitted to do.

They should be given an equal opportunity and of course be subject to the same solvency tests and official examinations.

The following is a summary of the record on the above subject:

Mr. Francis B. Stoddard, Superintendent of Insurance, testified:

"I am aware that the Fire Insurance Exchanges have now amended their regulations so that Mutual Companies are admitted as members. I can think of no reason why the Mutuals should not be admitted in these Bureaus in the casualty lines. I am aware that the Mutuals having been thus excluded from certain lines in this State are not allowed even to do the permitted lines in this State unless they agree not to do the excluded lines in other states where they might be allowed to do them.

"It is a fact that foreign companies that do life insurance business in their countries are allowed to come into this State and do all lines of Casualty business through the regular agencies.

"The Aetna and Traveler Companies do life business in other states and are allowed to come in here and do Casualty business in all lines. It is true that the Mutual Companies in this State are excluded from doing certain lines of Casualty business.

"A Mutual Company organized under the laws of New York absolutely can not do certain lines of Casualty business in New York whilst a foreign stock company can do those lines. The reason that has been advanced is that the solvency of the Mutuals has been unfortunate and that the experience of the Mutuals has been bad. I do not know

---

\* In all cases in which the Committee has quoted from testimony it has used a Digest in narrative form compiled by one of the Assistants to the Committee.

of any Mutual Company that lost a dollar in these Casualty lines to the insured or to the public.

(Pages 6515-6516): "I know of a good many Stock Companies that have 'busted up' and lost other people's money in these lines and, of course, I have heard of a good many stock companies being in financial difficulties. When the Mutual gets in financial difficulties it should generally pay 100 per cent on the dollar. I know of a good many Stock Companies that have not. I am now trying to investigate myself why Stock Companies from foreign states are permitted to write lines of Casualty in this State where a Mutual Company with a larger surplus than the Stock Company organized under the laws of our own State is not permitted to write that same line of casualty. I have not found any reason for that yet."

Mr. Jesse M. Phillips testified as follows:

(Page 6483): "Our Bureau does not admit Mutuals because it is purely a Stock Company organization. I know that all the economic laws with respect to competition have been set aside in favor of these Bureaus and Exchanges in the insurance business. I believe that this is the only commodity as to which the laws of the different states have permitted combination on prices. It follows that whether or not such combinations are permitted they should be subject to State regulation. I do not think it follows as a corollary that where such organizations are permitted, if any person in the same line of business who wants to become a member of the organization should have the right to do so."

"I have read that since this investigation the Fire Insurance Exchanges have changed their policy so that Mutuals are admitted. I did not know that the Mutuals were members of the Exchange. The reason why that should not be carried out in this Bureau of which I am the head is that they have a large number of Mutuals and they can have an Association of their own in this State. My other reason is that they are now permitted to get rates made by his Bureau.

"I could not tell you whether any Mutual Company in this State has ever gotten any unsupervised rates. You have to ask that of Mr. Whitney. I am not willing that they should become members because this is purely a stock organization. I think we should have the right to pick our own Companies."

"The Mutuals cannot write Plate Glass Insurance because they have not the right to do so under the Statute. I excluded them from writing Burglary Insurance because they should not be allowed to write that class of business and use the premiums that may be paid in in Workmen's Compensation and Liability to pay the losses in the Burglary class or the Plate Glass class. The Stock Companies are allowed to do all these things.

"Some of these Mutuals have larger surpluses than many of the Stock Companies."

"While foreign stock companies are permitted to write all these lines of insurance the Mutuals have been prohibited from doing it. Mr. Ekern asked on behalf of the Mutual Companies that they be put on a par with the foreign stock companies. I refused to recommend it because I did not think it would be right. The rulings that I passed when I was Superintendent of Insurance to the effect that the Mutuals should not be allowed to write in any other State any forms of insurance that they are not permitted to write in this State applies both to Mutuals and Stock on all classes of insurance.

"It is a fact that Stock Companies in this State are permitted to write classes of insurance that Mutual Companies are not permitted to write. The classes of insurance that the Stock Companies can write in New York State that the Mutuals cannot write are as follows: Plate Glass, Burglary, Fidelity and Surety, Credit insurance, non-assessable Workman's Compensation Insurance, non-assessable Liability.

"It is a fact that if a Mutual Company comes into the State, not being permitted to write any of these lines that we have just referred to, it cannot write in any other State any of these prohibited lines.

"I think it is a correct statement that during all these years while the Mutual Companies have transacted Workmen's Compensation Insurance that no employee or anybody else has lost a dollar through insuring his compensation with a Mutual Company. It is also correct that during that same time millions of dollars have been lost through insuring in these same lines with Stock Companies." (Page 6501.)

Mr. Whitney testified as follows:

"I think the Stock Companies in New York do almost all the business in Fidelity and Surety lines. I don't know

of the Mutuals doing any of that business. That is also true as to Credit Insurance, Burglary Insurance, Plate Glass Insurance, Elevator Insurance, non-assessable Liability Insurance and as to non-assessable Automobile Casualty Insurance."

### (12) Plate Glass Insurance

Plate glass is practically an unregulated monopoly.

Mr. Whitney testified on this subject as follows:

"Mr. Moore who used to be Manager of the New Amsterdam Casualty Company is now Manager of the Plate Glass Insurance Bureau and fixes the rates, I believe, for the whole country. I believe they can charge whatever they please. I think that ought to be subject to supervision, if politics could be eliminated. The same thing that is true of Plate Glass is also true of Burglary and Public Liability."

There is no more reason why Companies that insure plate glass against breakage or automobiles against fire should be given a special statutory dispensation to maintain a monopoly and fix the rates than that it should be given to dealers in any other commodity. The arguments that have prevailed in favor of cooperative rate-making bureaus for fire insurance that have resulted in building up the present monopoly based upon the difficulty and expense to any one company in fixing a just rate on the innumerable items and factors that enter into the problem have no application to a single line such as plate glass or automobiles where competition should be kept open.

But where the Legislature has legalized such a situation, no reason can be assigned for having it absolutely unregulated and unrestrained. None has been advanced.



## CHAPTER 14.

### INVESTMENTS OF FIRE, CASUALTY, PUBLIC LIABILITY, FIDELITY, SURETY AND PLATE GLASS INSUR- ANCE COMPANIES

Such of these companies as are organized in the State of New York and are conducting business there have practically no part of their vast assets invested in mortgage loans on real estate, as has been shown by the foregoing statistics. They appear to have expressly avoided that form of investment in favor of speculative securities, owing largely to the fact that they have been free from regulation by the State as to the character of their investments.

Unfortunately the law has up to this time placed no limitation upon the character of the securities in which they may invest. The result of this immunity from regulation is reflected in the speculative nature of their investments.

The large part of the revenues of the fire insurance companies and considerable of the business of the others comes from premiums on insurance connected with improved real property. Some of them own the buildings that cost millions of dollars of which only a part is occupied by them. That form of real estate, they consider sufficiently safe and liquid, but when it comes to investing the premiums that they make out of real estate in gilt-edged first mortgages on improved property, the cry goes up that theirs is a hazardous business in which losses may have to be suddenly met and that this form of security is not sufficiently "liquid" for their purposes. And this in spite of the fact that the savings banks of the State have an average of over 49 per cent of their total deposits invested in this way and that some of the largest and soundest of them have over 60 per cent thus invested.

A savings bank may be called upon to pay out all of its deposits on sixty days' notice. A fire insurance company, on the other hand, has its risks widely scattered, besides which its policies allow it sixty days after proofs of loss have been filed in which to pay a loss, so that the reasons for its assets being what it calls "liquid" are less important than those that apply to a savings bank.

The same comparison holds good to an extent with respect to the operations of life insurance companies. The prevalence of a plague or a virulent contagious disease is quite as apt to suddenly drain the surplus of a life insurance company as will fire losses deplete that of a fire insurance company, besides which the losses of the former are not reinsured and distributed to the same extent as are those of the latter. Yet the life insurance companies of this State and to a greater extent the life insurance companies of other States do not seem to find that there is anything unliquid in these short-term mortgage loans on real estate as compared with long-term obligations represented by railroad and other bonds over the enforcement of which they have no control.

The fact is that a well-secured mortgage loan on improved real property in a great city which represents not to exceed two-thirds of the value of that property, besides being a safer and better paying security is more liquid than any form of security other than a government, State or municipal bond. An examination of the security holdings of the stocks bonds and notes held by the great financial companies discloses that whilst a substantial proportion of them are listed on the Exchanges and have a public market, in most cases it is a limited market that would not absorb a large amount of these securities except at substantial concessions and that the large proportion of them have practically no public market whatever and no private market except at great sacrifices.

Whilst it is not fair to gauge the comparative values of these two classes of securities by the present public market, or to take their paper losses in these abnormal times as a criterion of value, your Committee respectfully submits that under normal conditions a prime first mortgage security is readily salable at a smaller concession from the face of the debt than are good bonds.

Any safe recognized security is liquid at a price. What these insurance officials mean when they talk about mortgage loans not being a liquid security as against other forms of security is that mortgages are not liquid at par in large amounts as against other securities *at any price* at which they may be sacrificed. That is all they can justly claim.

Herewith are given lists of the stocks that were held on December 31, 1920, by the Continental Fire Insurance Company and the Home Fire Insurance Company, the two leading companies in this country.

*Home Fire Insurance Company*

Afia Finance Corporation

(This is unlisted)

Allied Chemical &amp; Dye Corporation

American Brass Co.

American Agricultural Chemical Co

American Car &amp; Foundry Co., Pref.

American Exchange Securities Corp.

(Unlisted)

American Locomotive Co., Pref.

American Sugar Refining Co.

American Smelting &amp; Refining Co.,

Pref.

General Motors Co.

Gas &amp; Electric Light Co. stocks

Tobacco Company stocks

Goodrich Preferred

Goodyear Tire &amp; Rubber, Common &amp; Preferred

Interborough Consolidated

Interborough Rapid Transit

Manhattan Railways, Common &amp;

Preferred

International Harvester, Pref.

Inter-Zone Corporation

(Of which the Company holds  
\$1,030,000 par value)

Liggett &amp; Myers Tobacco Co.

National Enameling &amp; Stamping Co.,

Pref.

Proctor &amp; Gamble, Pref.

Railway Steel Springs Co., Pref.

Sherman-Williams Co., Pref.

Standard Oil of New Jersey, Pref.

Tobacco Products Corp., Pref.

Yale &amp; Towne Manufacturing Co.

The net loss over and above profits of the Home Ins. Co., on its stock holdings over a five-year period, as shown by the schedules accompanying this report on sales of stock, was: \$1,165,827, which consisted of gross losses of \$2,167,555, less profits of \$1,091,738. The shrinkage on Dec. 31, 1920, during that period, with respect to stocks on hand, showed a net book loss of \$1,753,745, making a grand net loss and net decrease for the period of \$2,819,572. A considerable part of the shrinkage of stocks on hand as of Dec. 31, 1920, has, however, been recovered by increases in mar-

*Continental Fire Insurance Company*

Afia Finance Corporation

Allied Chemical &amp; Dye Corporation

American Agricultural &amp; Chem. Co.

American Can Co.

American Cyanamide Co., Pref.

American Locomotive Co., Pref.

American Smelter &amp; Refining Co.,

Common and Pref.

(Between 1916 and 1920 the Company disposed of \$1,000,000 of this stock at a loss of \$209,024 on the common stock)

Sugar, Preferred

American Tel. &amp; Tel.

American Tobacco Co.

American Wholesale Corp., Pfd. (Unlisted)

Anaconda Copper Mining Co.

Armour &amp; Co., Pref.

Armour Leather

Atamtec Refining Co., Pref.

British Empire Steel Corporation

Brooklyn City Railroad Co.

Brooklyn-Edison Company

Kings County Electric Light &amp; Power Co.

Brown Shoe Co., Preferred

Burns Brothers, Preferred

Case Threshing Machine Co., Pref.

Cheeseborough Mfg. Co.

City Service Co.

Continental Can Co., Preferred

Corn Products Refining Co., Common &amp; Pref.

Cuba Cane Sugar Corp.

D., L. &amp; W. Coal Co.

Endicott-Johnson Corporation.

General Cigar Co. (Debentures and Preferred)

Goodrich Tire &amp; Rubber Co., Preferred

Goodyear Tire &amp; Rubber Co. of Canada

Great Atlantic &amp; Pacific Tea Co.

Gulf Oil Corporation

Inspiration Consolidated Copper Co

*Home Fire Insurance Company*

ket prices since that time, but no part of the estimated net loss on sales has been or can be recovered.

*Continental Fire Insurance Company*

Interborough Rapid Transit Co.  
Jewel Tea Co.  
S. S. Kresge Co.  
Lehigh Valley Coal & Sales Co.  
Liggett & Myers Tobacco Co., Preferred  
Loose-Wiles Biscuit Co.  
Lorillard, Preferred  
Mahoning Investment Co.  
Merck Company  
Montana Power Co., Preferred  
Montgomery-Ward & Co.  
National Biscuit Co.  
National Cloak & Suit Co.  
Packard Motor Co.  
Pan-American Petroleum & Trans.  
Co.

(Total investment of \$1,300,000)

Pierce-Arrow Motor Car Co., Preferred  
Pittsburgh Steel Co., Preferred  
Prairie Oil & Gas Co.  
Pullman Co.  
Reynolds Tobacco Co., Preferred  
Royal Baking Powder, Preferred  
Sears-Roebuck, Preferred  
South Penn Oil Co.  
Standard Milling Co.  
Standard Oil of Indiana  
Standard Oil of Kansas.  
Standard Oil of Kentucky  
Standard Oil of Nebraska  
Standard Oil of New Jersey  
Imperial Oil  
Standard Oil of Ohio  
Standard Tank Car Co., Pref.  
Steel & Tube Co. of America  
Studebaker Co.  
Texas Co.  
United Drug  
United Fruit Co.  
United Retail Stores Corp.  
United Cigar Stores, Preferred  
United Rubber Co., Preferred  
United States Steel Corporation  
Utah Copper  
Vacuum Oil  
Valvoline Oil  
Virginia Carolina Chemical Co.  
Willys-Overland Co.  
Woolworth, Preferred  
Worthington Pumping Machinery,  
Preferred  
Yale & Towne, Common

It is evident from a perusal of these lists that these Companies are speculating in securities. The same is true of other fire companies and especially of New York companies. The same is also true of many of the casualty, fidelity and surety companies of the State. The results of their operations in the securities that they have sold during the years 1919 and 1920 demonstrate that they are most unwise and unfortunate investors.

The Continental Fire Insurance Company shows a loss on sales after crediting profits on sales for these securities during the year 1919 were \$198,304; during the year 1920: \$78,850, whilst the Home Insurance Company shows a loss during 1919 of: \$2,581,489, and 1929 of: \$2,002,213. These are actual sales and do not include the big loss incurred in these years by reason of depreciation of values.

The Fire Insurance officials when required to account for their action in using their funds for these purposes have assumed with the Committee the position that the way in which their moneys are invested is none of the business of the Legislature or of the public!

Mr. Henry Evans, Chairman of the Board of Directors of the Continental Fire Insurance Company, American Eagle Insurance Company and the Fidelity-Phenix Insurance Company, testified on this subject as follows:

"After all, the question of whether we made money or lost money is a matter for our Directors and it does not concern the public. I am aware of the fact that the State recognizes Fire Insurance and Casualty Companies as public service corporations and gives them certain rights that are not given to people in private business.

"I am in accord with supervision over the reasonableness of our rates. I do not think that when the law permits these Fire Insurance Companies to get together and agree upon rates and to charge them to the public that it is on the theory that this is a public service business as distinguished from ordinary business.

"The reason I believe that these Companies should be allowed to invest in anything that they please is because their capital is their own and they are in no different relation to the public than anybody who sells any other kind of commodity. I claim the unlimited right for our Companies to invest in anything that the Board of Directors thinks profitable without restriction."

Mr. Frederick C. Buswell, the Senior Vice President of the Home Insurance Company, testified as follows on the subject of the attitude of his Company to the Public:

"I take the same viewpoint as that taken by Mr. Evans to the effect that what the Directors of the Fire Insurance Companies choose to do with their assets is nobody's business; it is the business of the stockholders. It has no trust relation to the public at all, provided its solvency is maintained. That is the basis on which I would oppose a limitation of the character of investments so far as my Insurance Companies are concerned.

\* \* \* \* \*

"Fire Insurance Companies have a right to do with their money as they please; provided always they maintain complete solvency for the protection of their obligations of all kinds. If the Directors authorized the Company to buy and sell stocks for profit, any kind of stocks, it is my judgment that the State has nothing to do with that so long as the Company remains unquestionably solvent. I recognize that this is a business impressed with a public use or public trust.

"I admit that our business is impressed with a public trust and yet I still insist that we have the right to do just as we please with the assets because the owners of those assets are liable for the amount. The stockholders are personally liable for their stock; I mean that they can lose their interest in the Company. Our policies are all non-assessable and the only liability that there is on these policies is by the Company itself and the Company alone is liable.

"A large part of the income of the fire insurance companies is obtained from insuring real estate against loss by fire. I have read that there is a housing crisis in this city in a certain class of property. I do not think my company is under obligation to invest any part of its great capital and surplus in mortgages on real estate.

"I have no doubt it is true that the savings banks in the State of New York have taken altogether forty-nine and a fraction per cent of their total assets in mortgages on real estate. I am aware of the fact that the Life Insurance Companies have a large proportion of their assets invested in first mortgages on real estate. I am aware of the fact that the Metropolitan Life, of its total assets of \$1,150,000,000

has \$454,000,00  
over 40 per cen

" I notice fr  
the Home Com  
of 15 years from  
from mortgages

" The reason  
estate mortgage  
as we please an  
to it."

Q. I underst  
ably invest in  
profitable, when  
pany? A. Not  
available.

Q. In other v  
you can? A. C

Q. And you  
panies, getting  
are under any c  
they give the re

Q. In the wa  
construction?

Q. What do  
estate people al  
the service they  
the service they

Q. But the fi  
erties you do n  
helping out this  
I think that is e  
with on its mer

Q. Then you  
estate owner; he  
will bear, and ;  
your assets, all  
obligations to h  
your money, is

Neither Mr. Evar  
answer to the argum  
of contingent obligat

end of 1920 \$3,787,833,653 and the Home \$6,417,700,281 of outstanding insurance) and that the unearned premiums they had collected in advance from the public amounted to many millions of dollars.

Nor have they apparently considered the further fact that it is on the ground that they are public service corporations that they have been safeguarded against competition and permitted to fix in combination the rates that the public is compelled to pay.

When the Legislature of this, as of other States, concluded to set aside, in favor of fire, casualty and like insurance companies the traditional policy of open competition and to permit these Companies to make uniform rates in combination through the agency of Rating Bureaus or Exchanges, it was assumed as a matter of course:

(1) That these bodies would be regulated and supervised by the Superintendent of Insurance.

(2) That the rates which they would thus be able in combination to exact from the public would especially be subject to supervision, and

(3) That every Insurance Company authorized to do business under the laws of the State would have access to the rates thus made and equal right to membership in these Rating Bureaus or Associations.

The Stock Companies, instead of thus conforming to the spirit of the statute that was enacted for their benefit, have used Section 141 of the Insurance Law as a means of imposing a monopoly upon the people of the State and of waging a war of destructive competition against the Mutual Companies because the latter were willing to sell insurance upon the basis of the rates made by the Stock Companies and at the same time to return to their policyholders approximately 25 per cent of the premium, after setting aside reserves and adding to their surplus accounts.

The effect of thus admitting the Mutual Companies to the Rate-making Bureaus would have been to have required the Stock Companies to reduce the rates so as to meet this competition.

They have also expended large sums of money for propaganda work. Whilst the Companies were under investigation by your Committee and immediately after the Committee had adjourned for the summer, a publicity campaign was inaugurated to offset the effect of the disclosures before the Committee, at an expense



of over \$80,000. The methods that have been adopted by these Stock Companies to influence public sentiment are severally condemned.

There are four Fire Insurance Exchanges in the State of New York, by far the largest of which is the New York Exchange. It has jurisdiction over the business in the Greater New York, except as to a small part of the City. Each of the Exchanges has its own geographical jurisdiction. The principal membership in the various Exchanges is substantially the same. That is, in fact, true throughout the United States so far as concerns the big Stock Companies. The membership in this State was until the investigation of these Companies by the Committee, confined to Stock Companies. Mutual Companies were expressly excluded unless they would agree not to return to their policy-holders any part of the sums collected in premiums, that is, unless they would cease to be Mutual Companies, although the Stock Companies left themselves free to return—not to the policyholders but to their stockholders—whatever part of their profits they saw fit.

Rate-making upon the endless items of property that enter into the insurance business is exceedingly difficult and expensive. It requires a large organization and expert knowledge and experience. No single company, however large, can afford to make rates for itself alone. That and the fact that the business was one peculiarly affected with a public trust, have always been the burden of the arguments advanced by the Insurance Companies for being permitted to combine in these rate-making bodies. Refusal of access to the rates virtually means exclusion of the Company from competition.

This exclusion of the Mutual Companies from the rate-making Bureau accounts for the fact that, whilst in the New England States and in most of the Western States Mutual Insurance constitute a large part of the business, it is relatively small in the State of New York.

But this exclusion of the Mutual Companies is not the only method to which the stock companies have resorted for the purpose of fastening their monopoly upon the people of this country. Another, and perhaps the most effective, feature was brought about through the control secured over the brokers and the regulations with respect to them, as no individual may engage in the business of fire insurance and no corporation without express au-

thority from the Superintendent of Insurance; individuals, firms and corporations are likewise prohibited from engaging in business as fire insurance brokers without having first secured a license from the State.

Having secured such a license, one would imagine that they would be free to transact business. But not so. The Exchanges have decreed otherwise. None of the members of the Exchange was permitted to pay commissions to a broker duly licensed by the State unless he also secured a license from the Exchange.

The broker must have this certificate from the Exchange in order to earn a living. Without it he can transact no business with any member of the Exchange. That means that he can do practically no business whatever. Under these regulations he cannot secure such a license, and having secured it he will lose it, unless he agrees not to transact any business for any Mutual or other Fire Insurance Company that is not a member of the Exchange nor can he insure the risks of his clients in any company, however responsible, that is not a member of the Exchange.

The regulations in fact went to the extent of rendering a Stock Company liable to expulsion from the Exchange for reinsuring any of its risks with a Company that was not or was not permitted to become a member of the Exchange.

The disciplining of the firm of Schiff, Terhune & Co., one of the leading firms of Fire Insurance brokers in the State of New York fairly illustrates the methods in which the Exchange has been engaged. This firm writes between \$1,000,000 and \$2,000,000 a year of premiums. It was a licensed broker of the Exchange and signed pledges 1 and 2, one of which it was required to sign. By the terms of Pledge 2 the broker must agree not to write insurance or to reinsure with any Company, though licensed by the State authorities to do business in the State of New York, unless such Company be a member of the Exchange, in consideration of which the broker is entitled to receive an additional 5% commission from the members of the Exchange with whom it writes insurance.

Inasmuch as this additional 5% constitutes the bulk of the net profits of the broker after he has paid his expenses for doing business, the exaction of this pledge renders this provision in effect obligatory upon him. The charge against Schiff, Terhune & Co. was — not that they had cut the rates — but that they had placed business with a Company that was not a member of the

Exchange. The name of the company in question was the Lumbermen's Mutual Fire Insurance Co., which is recognized as an important company and which was authorized to do business in the State of New York.

Notwithstanding that fact the Chairman of the Committee of the Exchange having in hand the enforcement of these regulations decided that the rules of the Exchange made it obligatory upon the Committee to revoke the certificate of Schiff, Terhune & Co. They were promised, however, that there would be no publication of this action, but three weeks later the Committee of the Exchange reversed its policy in that respect, the fact was published and the business of the firm which had been built up as the result of years of effort was threatened with ruin. The policy in question that had been placed with the Lumbermen's Insurance Company was for several hundred thousands of dollars and involved a saving from the Exchange rates of  $33\frac{1}{3}\%$ , although as before stated, the charge was not of cutting the rates but the (to the Exchange) far more serious offense of having placed the insurance with a Company that was not a member of the Exchange. The effect of the cancellation of the license of Schiff, Terhune & Co. was that under the regulations no member of the Exchange was permitted to pay them any commission for business done with them. They were previously permitted to continue to place insurance without pay and defray their own expenses if they saw fit — a stupid attempt to evade the laws against conspiracy, which accomplished no such result.

Mr. Schiff testified as follows:

"The policy that I wrote through the Lumbermen's Fire Insurance Company was a substantial policy of a department store. I know this company to be solvent. That is the way attempts at competition are treated by the Exchange. I don't know of any stock company today who are not members of the Exchange. You are not allowed as a broker in the Exchange to insure a Mutual. That is against the rules."

The Secretary of the Exchange, Mr. Willis O. Robb, gave testimony to the same effect, both with respect to the exclusion of Mutuels and the regulations affecting brokers. At the time of the taking of testimony on this branch of the inquiry there were approximately 8,100 brokers licensed in the Exchange, all of whom were subject to these restrictions and all but two had

signed pledges 1 and 2 as they were bound to do to be able to conduct business at a profit.

It was agreed by the representatives of the New York Exchange that the practices complained of: (1) of excluding Mutuals from membership in the Rating Bureaus; (2) of prohibiting the members of the Exchange from re-insuring with Mutuals; (3) of requiring brokers duly licensed by the State to sign pledges not to do business with Companies authorized by the State of New York to transact business in the State that were not members of the Exchange,— would be abrogated and the resolutions and by-laws under which such action was enforced would be repealed and that the Constitution, By-Laws and Regulations of all the Exchanges in the State of New York would be immediately revised and amended so that Mutuals would be admitted to membership, that the members of the several Exchanges would be permitted to reinsure with them and that the restrictions upon the brokers' activities would be removed.

It was further agreed by the representatives of the Exchange that the Stock Companies would agree — and would in good faith cooperate with the Committee in the enactment of legislation that would require that the rates of premium fixed by these various Exchanges in combination and that the public is required to pay should be thereafter placed under the supervision and control of the Superintendent of Insurance subject to the right of appeal to the Courts by either party. This proposed amendment to the law is to be found among the recommendations of the Committee in the passage of which it expects the cooperation and support of the Stock Companies and their Bureaus in compliance with their agreement.

Your Committee finds that the regulations of the various Exchanges have been amended so far as concerns the removal of the ban upon the Mutuals and that they are being admitted to membership in the Exchange.

The right of appeal to the Courts by either party from the determination of the Superintendent as to rates has been inserted in answer to the testimony of Mr. Whitney, the Manager of the Casualty Bureaus, to the effect that the same power of supervision applicable to the rates fixed for the Fire Companies should apply to the lines of insurance covered by his Bureau and that the only objection of the members of his Bureau to like supervision was the fear that the Superintendent might fix the rate too low from considerations of political expediency.

## CHAPTER 15.

### WORKMEN'S COMPENSATION INSURANCE.

When the Legislature made compulsory the compensatory insurance of workmen against death and injury, it became its duty to provide the means of insurance on the lowest possible terms consistent with the welfare of the workmen so as to make the burden upon industry as light as justice would permit. It was not intended to make of this requirement a money-making venture. This obligation was recognized in creating the State Fund, against the concentrated opposition of the Companies.

The bitter contest of the Companies over the creation of the State Fund resulted in compromise whereby the Companies that were already in the field were permitted to remain in competition with the State Fund.

The private companies have strenuously fought the State Fund.

The State Fund sells this insurance for at least 15 per cent less than the rates fixed by the Stock Companies but it does about 9 per cent of the business. The Stock Companies do 70 per cent and the Mutual Companies do the remaining 21 per cent of the business.

The total amount of premiums written in the State of New York in 1920 for Workmen's Compensation Insurance was \$43,901,451, of which the Stock Companies did \$30,462,898, the Mutuals, \$9,640,248, and the State Fund, \$3,798,305.

There is no mystery about methods that have been employed against the State Fund and the Mutual Companies. The facts thus established are taken from the records of the Companies themselves; the letters they have written, the propaganda that is being openly distributed by their vast publicity bureaus and the testimony of officers of the National Bureau of Casualty and Surety Underwriters, which came into existence on November 1, 1921, as the successor to the National Workmen's Compensation Bureau.

The Statute limited the authority of these Bureaus to the making of rates. It does not contemplate the uses to which the Bureaus have been put nor the extension of those purposes involved in the new Bureau.

The following provisions from its by-laws constitute the key-stone in its campaign against the State Fund and the Mutuals:

"Resolved, That there is a vital difference between State Insurance Funds and all other forms of insurance recoverage and this Bureau and its membership should openly and consistently oppose by all proper means State Insurance Funds as they now exist as well as the establishment of such funds in States where they do not exist."

Mr. Whitney testified on this subject (P. 6277):

"The Bureau has put itself on record as being opposed to the State Fund in this State. It is opposed to all State Funds."

Resolution No. 17 of the Bureau (P. 6284):

"That it is the duty of the members of the Bureau to act together in an effort to preserve the administration and control of the business of its members; this statement of the right of self-regulation is, however, merely an academic declaration unless there goes with it a recognition of the obligation of every member to yield immediate, complete and constant obedience to Bureau rules.

*"With such obedience the Bureau can successfully combat every effort toward undue control from any outside source. Without such obedience outside control is probably inevitable."* (Italics ours.)

The theory on which these potential competitors in this field of insurance amongst Stock Companies have been permitted in combination to fix the rates on the various classes of Workmen's Compensation Insurance instead of being required, as are other businesses, to compete between themselves, involves, of course, the strict adherence by them to the rates thus fixed. The law requires that the rates shall be adequate but provides no machinery for safeguarding the public against their being excessive or in the direction of regulating or supervising them.

When at the time of the organization of the State Fund the private companies were allowed to remain in the field, it surely was not contemplated that they would be permitted to combine to destroy the State Fund.

The business that would naturally come to the State Fund is diverted in three principal ways:

1. The manufacturers, contractors, merchants and other business men who are required to take Workmen's Compensation In-

insurance also take accident, public liability, plate glass, automobile, burglary, credit and the various other classes of insurance that are dealt in by the Stock Companies. All of these lines are unregulated in the State of New York. None of them is subject to any supervision or control whatever. The Companies in combination make whatever rates they choose and the public must pay them or go without insurance.

The testimony taken before your Committee shows instance after instance (and hundreds of others could have been submitted if time permitted) in which the unregulated lines were reduced, sometimes by one-half and more of the total amount of the prescribed rate to induce the customer to buy Workmen's Compensation Insurance from that particular Company. In other words, the Workmen's Compensation rate was indirectly cut below the actual cost of doing the business through rebates on the unregulated lines which the State Fund is not permitted to write.

This readily accounts for the inability of the State Fund to make headway notwithstanding its apparently superior attractions.

Mr. Marcy Feder who was from 1910 to 1917 one of the Examiners for the State Superintendent of Insurance testified to eleven illustrative instances of this form of rate-cutting. In one instance the Royal Indemnity Company, a member of the Bureau wrote a risk for the S. M. Bixby Co., for 80 cents per \$100 of payroll, the legal rate for which was \$1.80. In another case the Aetna Company wrote a bond for the Dohler Die Casting Company in 1919 at \$1.60 per \$100 for which the legal rate was \$2.60. In still another case the Ocean Accident & Guaranty Corporation wrote a 6-year policy on the same sort of unregulated risk (automobile trucking insurance) for the Ward Baking Company in which there was a reduction from the Bureau rate of \$350,000 over a period of six years.

It is not difficult to understand why it has been impossible for the State Fund to secure any considerable business under these circumstances. The Bureau members can almost afford in writing large risks to give away the insurance on Workmen's Compensation Insurance in order to destroy the State Fund by concessions of this character on the unregulated lines in which neither the State Fund nor the Mutuals are permitted to compete.

Mr. Whitney (P. 6349) admits that this cutting of the public liability or accident rates has been engaged in by the members of

the Bureau as a means of securing compensation insurance at the expense of the State Fund and that if the rates for public liability were regulated the State Fund would be in a better position to get business.

(Mr. Whitney):

"The Mutuals in New York State are, I think, to some extent doing public liability insurance; my understanding is that at least one company is doing public liability insurance, that is, insurance of companies for injuries done to the public. I know that cutting the public liability rates has been done to some extent so as to get the compensation insurance and the public liability insurance from the same customer, but I do not understand that it is done by stock companies any more than by the others.

"If all these rates were regulated (p. 6150), I think the State Fund would probably be in better position to get business in Compensation Insurance as against the Stock Companies and as against the Mutual Companies. The State Fund does the business for less money than the Stock Companies. In the past it has been done for at least 15 per cent less. I think there is a possibility that the State Fund is at a great disadvantage because of the ability of the Stock Companies to under-cut them on Compensation through the concessions that the Stock Companies and the Mutual Companies make in public liability and other lines and the regulation of all these lines would put an end to that sort of discrimination in compensation.

"If the State Fund (p. 6259) had the monopoly of this insurance it could do business much cheaper. Instead of saving 15 per cent to the people of the State it would probably save 30 per cent or more.

"I have a reason other than self-interest for contending that these Companies (the Stock Companies) ought to be permitted to do Workmen's Compensation when it is mandatory and when the State could do the business for less than one-half of what these people do it if left alone in the field" (p. 6458).

2. The Stock Companies' Bureau, the State Fund and the Mutuals together make the rates on Workmen's Compensa-



tion Insurance through a separate bureau known as the Compensation Inspection Bureau. The New York Law, whilst permitting these *Stock* Companies to write all lines of insurance and whilst permitting foreign stock companies to do the same, permits the *Mutuals* to write only certain limited prescribed lines. They are not allowed to write Plate Glass, Burglary, Credit, Elevator or any form of Non-Assessable Insurance."

Their point of weakness in competing with the *Stock* Companies thus becomes evident.

But this is not the only way in which the *Mutuals* have been handicapped. The Superintendent of Insurance, without the authority of any Statute has prescribed regulations to the effect that *Mutual* Companies that write any of these forms of insurance in the State of New York are not permitted to write other forms in other States although they are otherwise permitted to do so.

Inasmuch as the *Mutuals* have, as above shown, been prevented from writing many kinds of insurance in New York State that they are entitled to write in other States, most of the *Mutuals* have by that simple method been driven out of the State or have refused to come into it and thus competition has been restricted.

Nobody has yet been able to answer the question as to why these *Mutual* Companies, some of which have accumulated surpluses many times in excess of those of the *Stock* Companies, should not be placed on a par with the *Stock* Companies, assuming a similar state of financial responsibility, but the fact is that they are not.

Still another injustice to the *Mutual* Companies lies in the refusal of the Superintendent of Insurance to permit them to issue non-assessable policies such as are issued by the *Stock* Companies; and still another is the supervision by the State Superintendent over the amount of dividends they may repay to their policyholders and the limitations placed by him upon the proportion of their earnings that they may withhold and add to their surplus.

Why should a *Mutual* Company that has assets ten times greater than a *Stock* Company in the proportion of its liabilities and commitments be prevented from writing the same form of non-assessable policies that a *Stock* Company is permitted to write? ; or why should the proportion of profits it may see fit to redistribute to its policyholders be subject to the approval of

the Superintendent of Insurance so long as there is no question of the impairment of its solvency, whilst the dividends of a Stock Company, which it pays to its stockholders, are not subject to any such supervision?

Either both or neither should require approval.

### Publicity and Propaganda Bureaus

3. Perhaps the most improper of all the practices resorted to by the Bureau is the dissemination of false and misleading statements that are intended to destroy the confidence of the public in the State Fund and the Mutual Companies, thus enabling members of the Bureau to secure business at rates that are from 25 per cent up higher than those charged by the Mutuals and at least 15 per cent higher than those charged by the State Fund with its limited facilities.

This publicity bureau is known as the "Workmen's Compensation Publicity Bureau" (p. 6431). It takes care of all publicity and legislation. Mr. F. Robinson Jones, with an office at 80 Maiden Lane, New York City, is the Secretary of that Bureau. On this subject Mr. Whitney testified (p. 6432):

"The member companies of the Bureau have a Publicity Bureau. The Fidelity and Casualty Companies who are members of our Bureau are not members of the Publicity Bureau. I don't know what it costs to run that Publicity Bureau. The Travelers and Aetna both have their own Publicity Bureaus. *These Bureaus, I believe, act in cooperation with Mr. Jones. I believe that the Publicity Bureau has charge of the legislation.\** I believe that Mr. Lott has a connection with the Publicity Bureau. It does this work throughout the United States.

"It is from this Publicity Bureau that the representatives are sent or employed when legislation affecting the insurance interests crops up in any part of the United States. I have no knowledge of the cost of the Publicity Bureau. I believe the Publicity Bureaus have agencies or representatives in different States to keep them advised on proposed legislation.

"The magazine called 'The Insurance Field' is a trade organ of the insurance interests. I do not know whether the Insurance Companies own part of the stock. I did not

---

\* All italics in Report are those of Committee.

know that the 'Insurance Field' had been engaged in quite a campaign of attack on the Lockwood Committee."

Here the witness was shown a mass of material issued in the name of Mr. Lott and others.

Mr. Whitney said:

"When I said that the Companies were sick I meant that there were certain changes which should be made in the Stock Insurance Plan (p. 6425)."

When asked why Mr. Lott in his articles distributed through this Publicity Bureau called the Mutual business socialistic, Mr. Whitney said:

"It was because the policyholders get back the profits instead of the stockholders taking them themselves."

"Your Committee has not yet been able to investigate the cost to the policyholders of this State and of the country of these vast Publicity and Legislative Bureaus but intends, so far as it is able, to do so with a view of hereafter proposing legislation that would put an end to the use of the Bureaus for such purposes.

The rates that are now being exacted by stock companies upon lines of Workmen's Compensation Insurance directly connected with the building industry appears from the following schedule (Exhibit 1013), that was made up by Mr. Feder from the records of the Bureau and was admitted by Mr. Whitney to be correct. It shows the rate of insurance exacted for various classes of mechanics in the building trade on each \$100 of payroll and has been in existence since 1915:

Classification	Present pure premium	Indicated pure premium	Premium collected to provide for losses	Actual losses	Ratio of premium collected to actual losses
					Per cent
Grading land (6041).....	.28	.051	\$60,759	\$11,080	548
Cellar excavation (6227).....	.55	.120	32,904	7,153	459
Sewer building (6300).....	.83	.321	64,349	24,897	258
Pile driving (6222).....	.69	.079	55,942	6,313	885
Sheet metal work (5539).....	.55	.106	16,914	3,248	521
Iron and steel erection (5057)...	1.10	.034	18,924	590	3,212
Plumbing (5183).....	.14	.044	74,346	23,817	316
Steam pipes or boilers — insulation (5184).....	.14	.007	8,015	376	2,133
Elevator erection (5160).....	.69	.029	16,936	718	2,359
Carpentry (5401).....	.28	.083	213,189	63,166	337
Additions, alterations and repairs (5602).....	.28	.016	54,005	2,996	1,805
Carpentry — private residences — interior trim (5643).....	.28	.073	63,955	16,748	382
Masonry or concrete work — private residences (5642)....	.42	.134	147,944	47,205	313
Concrete work — reinforced (5204).....	.55	.132	154,265	37,138	416
Concrete work — foundations for buildings (5209).....	.55	.123	88,467	19,794	449
Painting and decorating—away from shop (5499).....	.11	.007	10,032	652	1,539
Plastering (5480).....	.17	.041	12,861	3,074	419
Salvage operations (5704).....	1.38	.152	2,507	277	906
Coal docks — operation (7313)...	.22	.003	1,622	25	6,491
Building material dealers (8205)...	.14	.024	8,960	1,555	576
Coal merchants (8230).....	.17	.051	7,819	2,368	331
Buildings—janitor work (9014)...	.28	.006	37,944	872	4,349
Totals.....	.35	.083	\$1,153,659	\$274,062	421

NOTE.—The above table comprises only a portion of the total number of contractor's classifications, but a similar tremendous margin of profit exists in the rates for other classifications, not listed above. The above experience is on a countrywide basis. There is no New York experience available for individual classifications.

As the wages of each mechanic and workman increase the pay-roll, of course, correspondingly increases. The result is that at the present time when wages are double what they were in 1915, when this schedule was put into effect, the insurance premiums have likewise doubled on the same risks, yet *there has not been a reduction of a penny on the rate*. The effect has been to double the rate. Mr. Whitney admits that the rates should be cut in half. The Committee is of opinion that they should be largely reduced. Mr. Whitney says that in September, 1920 (after the resolution appointing this Committee had been enlarged so as to

include an investigation of the practices of these Companies), his Bureau decided to take up this question and called for data with the view of revising these rates. That was eighteen months ago. That was after these exorbitant rates had been for five years in operation. He tells us that they have not yet "gotten around to it." Meantime the members of the Bureau continue to levy this oppressive burden upon the building industry.

It will be noted from the above schedule that the *general average* of premiums to losses in all these classes of insurance is about 450 per cent, but that the classification is so unjust that in individual cases, based *upon the experience of the members of the Bureau* the premiums are from 2,000 per cent to 6,000 per cent of the losses. It must be remembered that these figures are taken from the records of the Bureau itself, gathered by it from its members.

Mr. Feder testified in this connection (p. 6463):

"Exhibit 1013 is the statement I took from the Bureau records and is accurate. The rate has not been changed. I found that on contractor's classifications they were on an average 150 per cent to 200 per cent excessive. In one case they were over 3000 per cent excessive. No new rates have been promulgated yet. I am in favor of State regulation. Compensation Insurance is a considerable item in building operations. Compensation, Liability, Automobile, Trucks and the like ranged in building as high as \$30 per \$100 payroll. I would say that *the total percentage of the cost of building absorbed in the various classes of insurance would probably be nearly 5 per cent to 6 per cent but I could not say definitely what percentage.*

"From the vast difference of the cost of insurance in Pennsylvania and in New York it seems that there must be some jugglery of payrolls with the co-operation of the Insurance Company. From the figures of the policies issued in 1916 and 1917 in the 1920 revision of rates we found that the total composite payrolls were about equal in both states of New York and Pennsylvania; about *one and two-thirds billions* of dollars, and we also found that the payrolls for a very high rate of classification, like iron and steel erection were only \$2,500,000 in New York and \$7,500,000 in Pennsylvania and it is my belief that that came from juggling the iron and structural workers into another classification because the total payroll is approximately the same."

What Mr. Feder means by this is that the figures indicate that in New York where the payroll of workmen on iron and steel erection is only \$2,500,000 as compared with \$7,500,000 in Pennsylvania, the Companies in New York are putting iron and steel erectors into less expensive classifications in order to obtain competitive business. Perhaps that is another reason why the State Fund and the Mutuals cannot get any of this business.

It is difficult for the Committee to realize that the labor on steel erection in the State of Pennsylvania in the year 1920 amounted in volume to three times the value of like labor in New York State! This view is confirmed by the comparative rates charged by the Bureau Companies for Workmen's Compensation Insurance on labor of that class in New York and Pennsylvania. It will be noted that the rate in New York is \$28.99 per \$100 payroll. In Pennsylvania the rate is \$4 per \$100 payroll but the benefits in Pennsylvania are only one-half what they are in New York. Equalizing the benefits by doubling the Pennsylvania rate we have a rate of \$8 per \$100 payroll for iron and steel workmen in Pennsylvania against a rate of \$28.99 in New York. (P. 6488-6489).

On Carpentry the rate in Pennsylvania is \$2.10 per \$100, the benefits being only one-half what they are in New York. Doubling this rate to equalize the benefits the cost in New York should be \$4.20 per \$100 payroll, instead of which it is \$12.16.

"These are Workmen's Compensation regulated lines."

Says Mr. Feder:

"There is no adequate check, it seems to me, made on the correctness of the classifications of these risks. The Superintendent of Insurance as such has no power of revision to that extent. He has no power to reduce the rates". (P. 6439.)

Regulation of Workmen's Compensation Insurance alone, however rigid or effective, will not be of the slightest avail unless accompanied by the regulation of all lines of insurance (other than life insurance). The unregulated lines in which there is no competition will simply continue to be used, as they are now being used, as a cover to break the rate on the regulated lines.

## CHAPTER 16.

### CONTROL OF STOCK INSURANCE COMPANIES.

In the State of New York stock insurance companies have a control under present laws of the following kinds of insurance.

Fidelity and Surety Insurance.

Credit Insurance.

Burglary Insurance.

Plate Glass Insurance.

Elevator Insurance.

Non-assessable Workmen's Compensation Insurance.

Non-assessable Liability Insurance.

Non-assessable Automobile Casualty Insurance.

The people of New York have purchased different kinds of casualty insurance in the following amounts exclusively from stock companies as shown by the New York Insurance Department Report, Casualty, 1920 (Business of 1919), also 1921 (Business of 1920).

	Business of 1919	Business of 1920
Fidelity and Surety .....	\$9,163,374 41	\$10,737,766 69
Plate Glass .....	2,179,568 45	4,604,014 38
Burglary .....	3,850,471 86	6,180,138 22
Workmen's Compensation..	25,668,512 17	30,462,898 33
Total . . . . .	<u>\$15,198,264 69</u>	<u>\$21,531,432 19</u>

In addition, the people of New York have secured different kinds of casualty non-assessable insurance in the following amounts exclusively from stock companies, as shown by the same report:

	Net Premiums in New York	
Liability Insurance .....	\$18,326,139 67	\$22,511,081 71
Workmen's Compensation ..	25,668,512 17	30,462,898 33
Automobile and Teams Prop- erty .....	4,120,957 18	6,014,797 50
Other classes in which the mutual companies were per- mitted to compete only as to automobile and live stock on the assessable plan.	1,263,544 12	2,186,003 16
Total .....	<u>\$49,379,153 14</u>	<u>\$61,174,780 70</u>

In addition, the stock companies did a business in steam boiler insurance with premiums amounting to \$696,980.78 in 1920. In 1921, amendment of Section 70 permitted the transaction of steam boiler insurance by mutual companies.

The effect in New York State on various kinds of insurance is shown by the respective amounts paid by the stock companies to policyholders for losses on the various kinds of insurance during 1920.

Kinds of Insurance	Paid for Losses per \$100 Premiums Received — New York
Accident Insurance .....	\$38 50
Health Insurance .....	53 40
Liability .....	40 10
Workmen's Compensation ....	43 30
Fidelity .....	30 40
Surety .....	19 30
Plate Glass .....	44 50
Steam Boiler .....	8 20
Fly Wheel & Engine Breakage.	18 50
Burglary and Theft.....	39 70
Credit .....	35 50
Sprinkler .....	60 90
Automobile Property Damage.	56 80
Live Stock .....	66 30

The foregoing figures are taken from the Spectator Insurance Year Book of 1921, pp. A 346-351 and A 464-481.

It will be noted from this table that the return to the policyholder is highest in the case of live stock where there is mutual competition and in the case of sprinkler leakage where there is very active competition by the New England factory mutuals, and in the case of automobile property damage where there is competition by the automobile mutual companies, also in health insurance where there is competition by fraternal and local mutual organizations and more recently by the larger life insurance companies (mutual). There is also a larger return to policyholders in workmen's compensation where there is competition by the mutual companies. There is no competition by the mutual companies in fidelity and surety, burglary and theft, or credit insurance, nor was there any competition in 1920 in steam boiler and fly wheel insurance.



The amounts of policyholders' premiums required for each \$100 of incurred losses in 1920, as shown by the New York Insurance Report, Part III Casualty, page XLV, were as follows:

*Premiums Earned to Each \$100 Losses Incurred.*

	Premiums Earned	Less Return of Savings	Net Cost to Policy- holders
21 N. Y. Stock Cos.....	\$206 38	None	\$206 38
29 Other State Stock Companies..	204 62	None	204 62
8 Alien Companies .....	191 95	None	191 95
19 N. Y. Mutual Cos.....	172 37	\$19 72	152 65
6 Other State Mutual Companies.	207 71	64 97	142 74

The savings resulting to the policyholders in the mutual companies appear to be more than one fourth of the premiums and these savings were effected very largely on workmens' compensation insurance where the stock companies have been compelled to reduce their expenses to a much greater degree than in other lines of insurance.

*New York Ruling Arbitrary.*—The ruling of the Superintendent of Insurance of New York that a company cannot transact outside of New York any insurance which it may not transact in New York is not authorized by the New York Insurance Law. The only provisions of the Insurance Law on this question are those parts of Sections 9 and 25 which read:

"No corporation or individual shall transact *in this state* any insurance business not specified in the certificate of authority granted by the superintendent." Sec. 9, Parker's New York Insurance Law, 1920.

"A foreign insurance corporation may transact *in this state* only such kind of business as, under the laws of this state, a like domestic insurance corporation is authorized to transact.

"No such corporation shall transact any business in this state not specified in the certificate of authority granted by the superintendent." Sec. 25, Parker's New York Insurance Law, 1920.

The Superintendent of Insurance exacts from each company from another state an agreement not to transact anywhere any business for which it may not be licensed in New York.

The effect of this requirement is to keep out of New York State a considerable number of substantial mutual companies and also to restrict mutual companies doing business in New York to the transaction throughout the country of only the limited kinds of insurance permitted to mutual companies in New York.

This rule is not applied to alien stock insurance companies from foreign countries which quite often combine with casualty insurance, life insurance, and other kinds of insurance which cannot be transacted by such companies in New York. Nor is this rule applied to large stock companies of other states which combine in the same company life and casualty insurance.

The result of this rule is that casualty insurance companies licensed in New York and transacting in 1920 a total business of \$412,660,055.30 in net premiums, out of a total of about \$500,000,000 for the whole United States, are compelled to submit throughout the entire United States to the restrictions imposed by New York in favor of the large stock insurance companies.

For three years and more the mutual insurance companies have asked the New York Insurance Department to remedy this situation by abrogating this rule, by removing the restrictions upon the transaction of the different kinds of insurance by mutual companies, by providing for the organization of mutual companies to transact any kind of insurance, and by removing the prohibitions against the issue of non-assessable policies by mutual companies.

Instead of providing for the transaction of all kinds of insurance by mutual companies under proper safeguards as has been done in other states, New York has separate and distinct articles providing merely for the transaction by mutual companies of workmen's compensation insurance, liability insurance, automobile liability, automobile fire, steam boiler, and health and accident insurance. These forms, with the exception of the steam boiler and automobile insurance, are confined to mutual companies which already write workmen's compensation insurance.

Throughout the entire United States the field has been opened most freely to the transaction of workmen's compensation insurance by the mutual companies.

Since the first workmen's compensation laws were enacted, in 1911, the enactment of each such law has been accompanied by some provision for the transaction of this business by mutual

companies. Generally, these laws have been very limited and it has been necessary for the mutual companies to go into the State Legislatures to get permission to do the related kinds of insurance, such as public liability, automobile, and health and accident insurance.

The New York Insurance Report for 1921, Part III, page 533, shows that the Superintendent of Insurance took possession of the Casualty Company of America in 1917, under Section 63, as an insolvent company, and that it had outstanding unpaid compensation claims of \$868,916.29. Of this amount only \$232,581.34 is shown as allowed. It is believed that 25% has now been paid. The unfortunate workmen and their dependents undoubtedly have been the sufferers.

The New England Equitable Insurance Company of Boston was placed in the hands of the receivers in 1917 at which time it had outstanding workmen's compensation liabilities estimated at \$88,000. (See Massachusetts Life and Miscellaneous Report 1917, p. XIX.) The Massachusetts reports on this company during the past four years and more show that no payments have been made to the injured workmen and their dependents.

## **CHAPTER 17.**

### **HOME CONSTRUCTION; BUILDING AND LOAN ASSOCIATIONS.**

The solution of the problem, of course, lies in the erection of more housing. The home of the individual and the family affects the welfare of the entire community. From the home emanates everything that makes the Community, the State and the Nation. Unless the home is assured to the average citizen at a reasonable price, the result will not only affect that individual and family but the general public.

At the special session September, 1920, the Committee offered and the Legislature passed the bill granting local authorities the right to exempt from taxation for local purposes, for a period, all new buildings erected exclusively for housing, provided construction was commenced before April 1st, 1922, and the premises ready for occupancy within two years thereafter.

The City of New York and several other cities adopted local ordinances putting said law into effect. Home construction had been practically at a stand still for five years. The effect of the Tax Exemption Law was immediate, and in New York City from the date of the adoption of the ordinance, February 21, 1921, to December 31, 1921, upwards of \$300,000,000 worth of new home construction was started, completed, or is now under way.

The exemption means an approximate saving of twenty per cent of the cost of the building over the ten year period. It is not unfair to owners of existing buildings, because their properties were built on the old cost basis and if no new buildings were constructed the owner of the old property continues to pay all the taxes for support of government and is of the many who would suffer by reason of the resulting conditions of unrest and ill health. Building induced by partial Tax Exemption will give more employment, will help all of the people and ultimately add to the taxable values. There will be no loss of tax income for the land will be assessed and continue to pay taxes as at present. The buildings are not now assessable because they are not now in existence, and will not be in existence unless some substantial inducement is held out in order to partially offset the abnormal cost of construction.

Other States have passed similar bills and the Federal Government has made exemptions from taxation to certain industries to stimulate work. The law is optional in form and the advisability of its adoption is passed upon by the local authorities, who are in direct touch with the situation in their respective communities. They must know whether or not such a measure is needed and will give the required relief. Unemployment is one of the big problems of today and in New York City alone the Tax Exemption Law has kept thousands of mechanics directly employed on new home construction and thousands more employed on the material that goes into the construction. The Committee, therefore, recommends an extension of the time when new construction must begin to take advantage of the law from April 1, 1922, to April 1, 1923.

Much has been accomplished for home building and home owning by the Building and Loan Associations of the State of New York. These Associations are carefully supervised by the State Superintendent of Banks. Their work is highly commended by the Committee. While their resources and the amount they have loaned has largely increased in the last five years, their operations have been hampered because the bonds of the State Land Bank, with which they re-discount their mortgages have not been readily saleable, the income on them is subject to Federal Taxation. Thus they cannot fairly compete with the millions of dollars worth of bonds exempted from all taxation issued by the Federal Farm Loan Banks.

Year	Number of Associations	Total Resources	Mortgage Loans
1917 .....	253	\$86,072,829	\$75,580,810
1918 .....	249	89,017,871	76,427,796
1919 .....	254	100,259,014	87,989,675
1920 .....	267	115,779,779	102,167,041
1921 .....	276	131,260,000	118,000,000

1921 estimated.

## **CHAPTER 18.**

### **REASONS FOR EXTENDING THE COMMITTEE.**

The above references to the unfinished work of the Committee include only in a general way a part of the work that remains to be done. There should be added the following:

1. Objectionable provisions contained in the various Constitutions, By-Laws, Rules and Regulations that are known to exist among Labor Unions in cities of the State, and agreements between the Unions and Associations connected with the building industries in cities not yet investigated. Unless these objectionable provisions and practices are abrogated they should be inquired into and corrected.

2. The comprehensive reforms in the Labor Unions that the Committee has been promised would be inaugurated should be closely followed and the officials of the Unions should be required to make proof of the manner and extent to which the promised reforms have been made.

3. Other Employers Associations have not yet been examined. There are believed to be combinations existing among the constituent members of such Associations.

4. The investigation into the New York Building Trades Employers Association and its constituent associations should be continued until all the activities of the parent association and its constituent members have been made known and their illegal activities suppressed.

5. Of the illegal combinations in the building industries operating in Greater New York, some of them local Associations and others extending throughout the State and Nation, many of them against whom violations of the State or National Anti-trust laws have been established have not yet been presented for prosecution. In their presentation, your committee can render material aid.

6. The Committee suspended the examination of witnesses upon the promise of officials of these associations of competitors to in good faith disband their price-fixing organizations and resume competition. The Committee should recall the officials of these Associations for the purpose of determining to what extent they have been dissolved.

7. Local combinations in the building industries in other cities of the State are still to be inquired into.

8. The examination into the investments of the Life, Fire, Casualty, Fidelity and Surety Companies is not fully complete. The Committee has examined officers of only two Life Insurance Companies.

9. The manner in which owners of tenement and apartment properties have evaded the Emergency Rent Laws and the frauds practiced by them upon tenants is still to be established by sworn testimony. The Committee has thus far been able to call only a few of the many men engaged in these practices to the witness stand. There are others whose operations should be exposed for the better protection of tenants and as a basis for further legislation.

## **CHAPTER 19.**

### **RECOMMENDATIONS FOR LEGISLATION.**

Your Committee respectfully submits the following recommendations for legislation:

#### **(1) Emergency Rent Laws.**

1. A bill extending these laws until February 15th, 1924.
2. A bill extending the tax exemption law so as to extend the time to commence construction in order to secure exemption from taxation until April 1st, 1923. It is not contemplated, however, that the period of exemption shall be extended.
3. A bill providing that for the purpose of determining reasonableness of rent the assessed valuation of premises be presumptive evidence of the actual value.
4. A bill providing for the return of jury fees that have been paid by tenants whose cases are not separately tried.
5. A bill providing for the dismissal of an action with costs in favor of the defendant in cases brought in the wrong district.
6. A bill providing that the defendant shall be entitled to costs in an action if the plaintiff does not succeed in recovering more than the amount previously paid by the defendant.
7. A bill clarifying the present provision of the law as to the payment of three monthly instalments of rent.
8. A bill clarifying the present law in relation to the deposit of rent in court and the payment of the same to the landlord.
9. A bill requiring the landlord to give thirty days notice of an increase of rent.
10. A bill providing that after foreclosure of a mortgage tenants may not be dispossessed except in cases where summary proceedings are maintainable.
11. A bill providing for the creation of either a new court district or the appointment of additional justices in the seventh district of Manhattan.

#### **(2) Illegal Combinations.**

1. A bill amending the State Anti-Trust Law known as the Donnelly Act, in the following particulars:

(a) Repealing the provision giving to the Courts the discretion to impose only fines upon individuals or firms or to



suspend prison sentences or the execution thereof, the purpose of the amendment being that wherever individuals are convicted of violating the Act it will be made compulsory upon the Court to impose a prison sentence of not less than three months or more than one year in addition to such fine, if any, as the Court may in the exercise of its discretion see fit to impose.

(b) Defining the meaning of the term "any article or commodity in common use" in the act, so that it shall specifically include combinations among contractors, manufacturers and dealers in building materials used in the construction of buildings though the same be used in connection with labor. The purpose of this amendment is to reverse the rule of law laid down in the case of a combination of mason contractors who were indicted for fixing by agreement between them the prices per cubic yard for constructing and furnishing stone walls and foundations to buildings in which case the Court held that inasmuch as labor entered largely into the performance of the contract this did not constitute a combination with respect to "an article or commodity in common use."

The Committee sees no distinction between price-fixing combinations of contractors to furnish foundations and those that furnish the fronts of buildings, or the trim or any other part of the structure.

2. There is also separately submitted without recommendation for the consideration of the Legislature a Bill having for its purposes the creation of a State Trade Board and of prohibiting corporations or Joint Stock Association from becoming members of or connected with any Trade Association, Society, Club, Library, Institute or other form of organization of competitors under whatever name or pretext or from becoming parties to any trade agreement with competitors, without having first received the previous approval of such Trade Board.

The primary purpose of this legislation is to create a body with wide supervisory and investigating powers that will be able at all times to discover, suppress Associations or agreements between competitors that have for their purpose the fixing of prices, the regulation of output, division of territory or other methods of restraining or interfering with the free flow of competition and to gather the evidence on which to prosecute offenders

against the State Anti-Trust Laws and the laws of conspiracy against trade.

*Assembly McWhinney and Hamill do not approve of the foregoing recommendation. They take the position that the matter should be left to the discretion of the Court.*

*Senator Cotillo approves of the foregoing recommendation, but believes that the Donnelly Act should be amended so as to take away all exemptions.*

### **A Memorial to Congress**

3. The Committee herewith recommends and presents for adoption a proposed Joint Resolution to be passed by the Legislature memorializing Congress:

1. To amend the Federal Anti-Trust Laws so as to take from the Courts the discretion of imposing fines upon individuals upon conviction for violation of those laws and to compel the imposition of prison sentences, as has been recommended with respect to the amendment of the State Laws.

2. To enlarge the powers of the Federal Trade Commission so that it shall be vested with the same powers with respect to interstate corporations and associations as are proposed for the State Trade Board with respect to State Associations and to prohibit interstate corporations in like manner from becoming members of trade Boards, Associations, Clubs, Societies, Institutes, etc., in like manner as is provided with respect to the State Trade Board.

Your Committee believes that this unusual action is not only justified but made necessary by the facts that have been developed, from which it appears, as set forth in the Report, that in almost every line of industry connected with building construction there are Nation-wide combinations between corporations engaged in interstate commerce, some of which have their main offices in the City of New York, some in Buffalo and others in Pittsburg, Chicago and elsewhere, scattered throughout the United States, all of which are oppressing and burdening the people of this State as well as of other States by excessive prices resulting from price-fixing, division of territory, restriction of output, falsely pretending to estimate and sell in competition

with one another when in point of fact their estimates are made in consultation and by agreement and that they are by innumerable other unlawful devices preying upon the people of the country.

It is impossible to control these offenders by State prosecutions or through the legal machinery of the State. In many cases they are not within State jurisdiction and the proofs necessary for prosecution cannot be secured here. The cooperation of the Federal authorities is essential. Its present administrative and legal machinery have been proven by experience to be likewise insufficient and inadequate. Nothing short of close cooperation between Federal and State authorities by way of legislation and in the prosecution of offenders can possibly relieve this situation.

*Assemblyman McWhinney and Hamill do not approve of the foregoing recommendation.*

### **(3) Insurance Companies and Financial Institutions.**

1. A Bill requiring Insurance Companies (without however compelling them to dispose of their present securities) to invest at least 40% of their future investable funds in mortgage loans on improved unencumbered real property to an amount not to exceed  $66\frac{2}{3}\%$  of the appraised value of such property until the total amount of such mortgage loans shall from year to year equal 30% of the total assets of such companies. This limit has already been exceeded by the largest of these companies; others have reduced their previous proportion of investments in this class of security in favor of more speculative and less desirable forms of security.

*Senator Lockwood and Assemblyman Caulfield dissent on the ground that while they believe the investments of Insurance Companies should be restricted to high class securities, such as are now permitted for Life Insurance Companies and Savings Banks, they do not believe in a compulsory investment law, requiring these corporations to invest a specific amount of their assets in one designated class of securities. The companies do a world-wide business and such legislation might lead to similar or more special legislation in other Countries and States, which might be to the disadvantage of the New York Companies and lessen the amount they would be able to loan on mortgages in New York.*

*As announced at the beginning of the hearings Senator Lockwood did not take part in the examination of Life Insurance Companies and their financial affairs, nor participate in the framing of recommendations, relating thereto. His part therein has been confined to the dissent here set forth.*

2. A bill amending section one hundred of the insurance law, as amended by chapter four hundred and eighty-eight of the laws of nineteen hundred and twenty-one, so as to strike out the provision giving to the superintendent of insurance the right to extend beyond nineteen hundred and twenty-six the period within which such companies are required to dispose of their stock investments.

The original section required the disposition to be made within five years after December thirty-first, nineteen hundred and six, and the legislature has extended that date from time to time until December thirty-first, nineteen hundred and twenty-six.

### **Recommended**

3. A Bill amending Section 141 of the Insurance Law so as to provide for State supervision over all rates and rate-making Bureaus and organizations, and limiting the activities of these bureaus and subjecting them and their practices to State control.

4. A Bill Granting to all Mutual Insurance Companies that provide safeguards to policy holders equal to those provided by the Stock Companies, the same right to transact all kinds of insurance as are now possessed by Stock Companies organized under the laws of this State and of foreign states and countries.

5. A Bill permitting Mutual Employers Liability Corporations to divide their directors into groups whose terms may expire in different years, in the same manner in which Stock Corporations are now so permitted.

6. A Bill prohibiting the conversion of Mutual Companies into Stock Insurance Companies.

7. A Bill requiring all Insurance (except Life Companies) Companies to sell and dispose within five years from the passage of this Act of all their investments in common or preferred stocks of corporations and of all securities held by them other than securities in which Savings Banks and Life Insurance Companies are now permitted by law to invest.

8. A Bill requiring the savings banks in the State of New York to invest and keep invested from and out of all future investable funds not less than 40 per cent. of their deposits in mortgage loans on improved unencumbered real property.

As above stated, the showing of the savings banks in this regard is most gratifying. Taken as a whole the Banks have over 49% of their deposits invested in this way. Some of the most prosperous of them have over 60% so invested. Others, however, have less than 24% so applied. The purpose of this Bill is to compel those who have not come up to the average to do so.

The fact that the most prosperous of the banks have found this to be the safest, best and most lucrative security is sufficient reason for compelling the others to apply their funds in the same way.

*Senator Lockwood and Assemblyman Caulfield dissent from this recommendation on the ground that they do not believe a compulsory law requiring Savings Banks to invest a specific amount of their assets in one particular security is for the best interests of the depositors. Their investments are now limited to high grade securities and the Savings Banks of this State have been, for a number of years, the main-stay of the mortgage loan market, especially for home loans. Under the present law they may invest in bonds and mortgages on real estate up to 65 per cent of their resources. The average amount so invested by all of the Banks of the State is about 50 per cent. Many of them have upwards of 65 per cent so invested. Those that have a small percentage of their assets invested in bonds and mortgage should be required by the Superintendent of Banks, or by the Committee, to give their reasons, and if they are not adequate the Legislature can then consider a compulsory investment law applying to bonds and mortgages.*

9. The passage of the bills recommended in this report will create a large amount of additional work for the Superintendent of Insurance and the Committee recommends that provision be made for at least two additional statisticians and examiners and four additional examiners. These extra employees will be absolutely necessary if the work is to be done.

#### **(4) Emergency Construction by Insurance Companies.**

The reform of abuses among labor unions, the suppression of the illegal combinations among manufacturers, contractors, employers and others furnishing building materials and the reopening of the channels of competition, together with the creation of a loan

market will do their share toward eventually restoring normal conditions in the building market.

But all these things will take time. The City of New York is in urgent need of at least 70,000 additional healthful and sanitary apartments of four rooms each that can be rented at not to exceed \$9 per month per room.

The bill recommended by this Committee and now pending before your Honorable Body permitting life insurance companies to construct such houses during a limited time and in aid of the existing emergency will, in the judgment of your Committee, best and most expeditiously accomplish that purpose, for the reasons stated in the report accompanying the bill. Since that report was made preliminary estimates have been taken, the Metropolitan Life Insurance Company has undertaken a thorough canvass of the situation and estimates have been undertaken. It has been established that these houses can be built in convenient neighborhoods so as to be rented at not exceeding \$9 per room per month and this rental will allow a return of 6 per cent upon the investment over and above the charges including liberal allowances for repairs and depreciation.

This result can, however, only be obtained if the houses are built in large units. The co-operation of organized labor and of manufacturers of and dealers in building materials has been even more generous than was expected. In almost all lines of the required materials manufacturers and dealers have agreed either to sell their products at actual cost or at prices far below the market. It is estimated that these houses can be built under the conditions of co-operation now offered at between 15 per cent and 20 per cent less than in the usual way.

If the pending bill is passed, work will be begun immediately on an experimental square block as soon as the contracts for this work have been made so as to fix the actual cost of construction. There is no reason why contracts for other blocks of houses should not immediately follow.

From the point of view of the insurance companies that may choose to engage in this undertaking and of their policyholders, the investment is believed to be a safe, conservative and lucrative one, apart from the splendid public service involved and the advantages to be derived therefrom by its own great army of policyholders living in the City of New York and who are the ones most affected by the existing housing crisis.

The Metropolitan Life Insurance Company has 2,250,000 policies outstanding in the City of New York that are held by 1,900,000 individuals, equivalent to over 30 per cent of the population. These are mainly small industrial policies held by working people who are the ones directly affected by the existing situation. The Prudential Life Insurance Company has at least one-half that number of policies outstanding in the City of New York so that these two companies may justly be said to be holding in trust the funds of the great majority of the people of the City of New York who are most in need of this relief.

The application of a limited amount of the funds of these companies to that purpose, assuming that the investment is safe, is in the judgment of your Committee the best use to which these funds can be put in the interest of the policyholders.

#### (5) Other Bills.

1. A Bill permitting the people to appeal to the Appellate Division of the Supreme Court and to the Court of Appeals at any time within six months after the making of an order, ruling or decision by any Court dismissing an indictment, other than at the trial and on the merits.

The present condition of the law is anomalous in this respect.

An order sustaining a demurrer to an indictment is now appealable by the People, but if the application takes the form of a motion to dismiss the indictment the order made thereon is not appealable. Again, if a demurrer to an indictment is overruled the defendant may appeal and if the order is reversed by the Appellate Division of the Supreme Court the People may appeal from such an order to the Court of Appeals.

In other words, they have the right of appeal from the determination of an Appellate Court but no right of appeal from the decision of the Court below. This condition has wrought grave injustice to the People. Thousands of indictments have been dismissed and rules of law have been laid down that are believed to be untenable, against the protests of the prosecuting officer and with respect to which there is no redress on the part of the People.

2. This same Bill should also provide that in all cases in which the Public Prosecutor consents to or opposes the dismissal of indictment without trial the reasons for such action shall be stated in writing in detail and filed with the order dismissing the indictment and that there shall be prepared and filed by the Clerk of

the Court a monthly statement of all indictments that have been dismissed, the member of the Court by whom this action was taken and whether or not the same was with the consent or against the opposition or upon the recommendation of the Prosecutor and that all such lists shall be kept open for public inspection.

*Senator Cotillo and Assemblyman Hamill dissent from these two recommendations on the ground that they do not believe the present law should be changed.*

3. A Bill amending the charter of the City of New York so that the City may at its election avail itself of contracts of subcontractors where the principal contractor fails to complete his contract.

The reasons for this legislation are fully stated in the Report.

There is a great demand for mortgage loans for home building throughout the State, especially from people who desire to build and own a home, and for the erection of multi-family houses to be rented at reasonable cost. The requirements of the mortgage loan market can largely be met if there is the fullest co-operation and willingness to lend on properly secured mortgage loans by savings banks, life, fire and other insurance companies.

Your Committee is of the opinion that if these corporations will co-operate with the Superintendents of Banks and Insurance, the stimulation of construction can be greatly aided and a long step forward taken toward terminating emergency.

---

There are further subjects of proposed legislation developed by the investigation that your Committee is unable now to present from lack of time and opportunity for further study and preparation of the necessary Bills.

#### **COUNSEL AND STAFF.**

The people of the State and the Committee were most fortunate in obtaining the valuable services of three eminent members of the Bar, who prepared the briefs in the group of rent law test cases presented to the Appellate Division of the Supreme Court, Court of Appeals of New York, Federal District Court, the Circuit Court of Appeals and the Supreme Court of the United States.

The Attorneys who gave this great service to the State, without charge, and who acted as special Deputy Attorneys General, are Hon. William D. Guthrie, Hon. Julius Henry Cohen, Bernard Hershkopf, Esq.



Since the formation of the Committee, in 1919, Elmer G. Sammis, Esq., has been its counsel specially charged with the preparation of the Rent Laws and with attention to the litigation involving them. He rendered excellent service, in association with the distinguished attorneys, and also in many hundreds of rent cases, and in these special matters has asked no compensation.

The powers and duties of the Committee having been broadened in their scope by the resolutions of September, 1920, and February, 1921, it was necessary to obtain eminent counsel to conduct a searching inquiry into every phase of the subject, as complex problems of industry, commerce and finance confronted it. The State was saved great expense by the generous announcement of Mr. Samuel Untermeyer that he would undertake the work as a public service without compensation. He has spared no effort, and has contributed the greater part of the past eighteen months of his valuable time and superb ability, and from his own pocket has paid a considerable sum in the employment of his own staff of assistants.

The resolution required the Committee to examine into the existence of illegal combinations, and it became necessary for Mr. Untermeyer, as Counsel, to inaugurate and personally conduct, and, when not so engaged, to supervise the criminal prosecutions arising out of the disclosures made by the Committee. These prosecutions were many and important, involving offenses against Federal and State Laws. To accomplish speedy and satisfactory results the assistance of Governors Nathan L. Miller and Alfred E. Smith, Hon. Charles D. Newton and the Federal Department of Justice was enlisted, and a separate organization for the prosecution of these cases was set up under the direction of Counsel with a staff of able and distinguished prosecutors. This work has been most successful under the direction of Mr. Samuel Untermeyer. The Committee appreciates the excellent work done by its entire staff.

#### **ACKNOWLEDGMENT.**

The Committee has had the fullest co-operation and assistance from Governor Nathan L. Miller, former Governor Alfred E. Smith, Hon. Charles D. Newton, Attorney General of the State of New York, Hon. Harry M. Dougherty, Attorney General of the United States, the Presidents Pro-Tem of the Senate, the Speakers of the Assembly, Leaders of the Legislature and all its members, Robert C. Cumming, Esq., and William F. McCormack,

Bill Drafting Commissioners, the State Reconstruction Commission, the Justices of the Municipal Court, the Mayor's Committee on Rent Profiteering, Hon. Frank Mann, Tenement House Commissioner, Hon. Royal S. Copeland, Health Commissioner, Hon. Richard E. Enright, Police Commissioner, Hon. Nathan Hirsch, Hon. Arthur J. W. Hilly and many Civic and Charitable organizations.

In the prosecutions we are especially indebted to Attorney General Newton and Staff, Hon. William Hayward, United States District Attorney for the Southern District of New York, Hon. Joab H. Banton, District Attorney of New York County, and Staff, Hon. Guy C. Moore, District Attorney of Erie County, and Hon. Robert L. Johnstone, Ferdinand Pecora, Esq., and Stanley Richter, Esq., Assistant District Attorneys of New York County.

The present members of the Housing Committee want to commend the work done by the following former members of the Legislature, who, during their terms of office, served on the Committee:

Hon. Peter A. Abeles, former Member of the Senate.  
Hon. Abraham Kaplan, former Member of the Senate.  
Hon. Ida B. Sammis, former Member of the Assembly.  
Hon. Earl H. Miller, former Member of the Assembly.  
Hon. Nicholas M. Pette, former Member of the Assembly.  
Hon. Edward J. Neary, former Member of the Assembly.

Respectfully submitted,

CHARLES C. LOCKWOOD,  
*Chairman.*

THOMAS A. McWHINNEY,  
*Vice-Chairman.*

JAMES H. CAULFIELD, JR.,  
*Secretary.*

WILLIAM A. CARSON,  
WARD V. TOLBERT,  
JOHN J. DUNNIGAN,  
SALVATORE A. COTILLO,  
PETER A. LEININGER,  
PETER A. HAMILL,  
GEORGE N. JESSE.











